A SHORT INTRODUCTION TO MORAL PHILOSOPHY,

IN THREE BOOKS;

CONTAINING THE

ELEMENTS OF ETHICKS

AND THE

LAW OF NATURE.

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TRANSLATED FROM THE LATIN.

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NICVM

ADVERTISEMENT

BY THE TRANSLATOR.

THE Author of this book had no inclination that it ſhould be tranſlated, as he wiſhes that all our ſtudents were much enured to the latin tongue, which for the two laſt centuries, (and in many preceeding, in ſuch ſtyle as they had) was the common channel of communication among the Learned through all Europe. He was abundantly aware that ſuch compends, wrote in the moſt ſuccinct manner their authors could, and yet touching at a great variety of ſubjects, with hints of the principal topicks of reaſoning, muſt appear very jejune and unpleaſant to common readers: not to mention the unavoidable terms of art, which can ſcarce be turned into eaſy common language. But he found that the preventing a tranſlation was impoſſible; as it was

was deſigned in London ſoon after the publication of the firſt edition. He therefor thought proper it ſhould be rather done in Glaſgow. The Engliſh reader muſt excuſe the tranſlator in the uſe of ſome few latin terms of art in the 2d and 3d books, and in the omiſſion of a ſection or two relating ſolely to ſome latin ways of ſpeaking in the civil law. He has ſometimes inſerted a ſhort ſentence, or added a note or two, to make ſome points clearer. He needs the readers indulgence too, if, in following the original pretty cloſely, he ſometimes makes ſentences too long, or not ſo ſmooth and eaſy as our native tongue would require.

TO THE

STUDENTS IN UNIVERSITIES.

THE celebrated diviſion of philoſophy among the ancients was into the rational or logical, the natural, and the moral. Their moral philoſophy contained theſe parts, ethicks taken more ſtrictly, teaching the nature of virtue and regulating the internal diſpoſitions; and the knowledge of the law of nature. This later contained, 1. the doctrine of private rights, or the laws obtaining in natural liberty. 2. Oeconomicks, or the laws and rights of the ſeveral members of a family; and 3. Politicks, ſhewing the various plans of civil government, and the rights of ſtates with reſpect to each other. The following books contain the elements of theſe ſeveral branches of moral philoſophy; which if they are carefully ſtudied may give the youth an eaſier acceſs to the well known and admired works either of the ancients, Plato, Ariſtotle, Xenophon, Cicero; or of the moderns, Grotius, Cumberland, Puffendorf, Harrington and others, upon this branch of philoſophy.

The learned will at once diſcern how much of this commend is taken from the writings of others, from Cicero and Ariſtotle; and to name no other moderns, from Puffendorf's ſmaller work, de officio hominis et civis, which that worthy and ingenious man the late Profeſſor Gerſhom Carmichael of Glaſgow, by far the beſt commentator on that book, has ſo ſupplied and corrected that the notes are of much more value than the text. The reaſons

of my undertaking to compose anew a compend of this branch of philosophy, after so many such compends have been published by very learned men, were these; Every teacher must use his own judgment on these subjects, use his own method, and that disposition of the several parts, and those arguments which seem to him of greatest force, best suited to the apprehensions of the students, and aptest to touch their hearts on such subjects. And as the method and order which pleased me most is pretty different from what has of late prevailed; if it can be of any advantage in education, it must be of use to the students to have in their hands an abridgement, containing the method and the principal heads of argument, to recall to their memories the points more largely insisted upon in their lectures.

The design of Cicero's *books* de officiis, *which are very justly admired by all, has been mistaken inconsiderately by some very ingenious men, who speak of these books as intended for a compleat system of morals or ethicks. Whereas* Cicero *expresly declares, that the doctrine concerning* virtue, *and the* supreme good, *which is the principal part of ethicks, is to be found elsewhere. Nay in his own books* de finibus, *and* Tusculan questions, *he had previously treated these subjects more copiously* *. *And he tells us expresly,* † *that in his book* de officiis *he follows the* Stoick

* As we find from *Cicero*'s first book *de finib.* that *Brutus* had wrote a book *de virtute* addressed to *Cicero*; this might be the reason why no book of *Cicero*'s bears such a title; tho' it is manifest to any who read the books *de finibus* and the *Tusculan questions*, that the fundamental doctrine of morals is copiously delivered in them, and presuppos'd in the books *de officiis* and passed over in a section or two.

† See Book I. ch. i, ii. and Book III. ch. iii.

oicks, *and uſes their way of treating this ſubject. Now s well known that the Stoicks made ſuch difference be-een* virtue, *which they counted the ſole good, and the ficia, or external duties of life, that they counted theſe ties among the* things indifferent, *neither morally good r evil.* * *The deſign then of theſe books* de officiis *is this; ſhew how perſons in higher ſtations, already well in-ructed in the fundamentals of moral philoſophy, ſhould ſo nduct themſelves in life, that in perfect conſiſtence with rtue they may obtain great intereſt, power, popularity, gh offices and glory.*

In the ſecond impreſſion of this book ſome few additions emed neceſſary and ſeveral amendments. The author once tended to have made references all along to the more e-inent writers, antient or modern, who treated the ſeve-al ſubjects. But conſidering that this could be of no uſe xcept to thoſe who have the cited books at hand, and that ch could eaſily by their indexes find the correſponding aces for themſelves: he ſpared himſelf that diſagree-le aud unneceſſary labour. All who have looked into ſuch bjects know that the general doctrine and foundations of rals may be found in the antients above mentioned, and Dr. Cumberland, *and in Lord* Shaftesbury: *and that arce any queſtion of the law of nature and nations is not*

* Nay he alſo declares l. iii. c. 3. that he writes only *de ediis officiis*, which might be performed both by the *wiſe* nd the *unwiſe*; and yet in the latter they allowed no virtue. eſides, the antients generally delivered all the *juriſprudentia aturalis*, and their doctrine about civil government in their olitica, or books *de legibus*, of which there's little or nothing n the books *de officiis*; tho' theſe are parts of the moral phi-oſophy of the antients.

to be found in Grotius, Puffendorf, *especially with* Barbeyrac's *copious notes*, Harrington, Lock, *or* Bynkershoek, *to mention no more. Nay in* Barbeyrac *one find the principal authors who have publiſhed large diſſertations on particular heads. Such as want more full diſcuſſions of any ſuch points, muſt have recourſe to theſe authors.*

These elementary books are for your uſe who ſtudy at Univerſities, and not for the learned. When you have conſidered them well, go on to greater and more important works. Go to the grand fountains of all the ſciences, of all elegance; the inventers and improvers of all ingenious arts, the Greek and Roman writers: and while you are drawing from them what knowledge you can, have recourſe alſo to yet purer fountains, the holy Scriptures *which alone give to ſinful mortals any ſure hopes of an happy immortality; that you may adorn your ſouls with every virtue, prepare yourſelves for every honourable office in life, and quench that manly and laudable thirſt you ſhould have after knowledge. Let not philoſophy reſt in ſpeculation, let it be a medicine for the diſorders of the ſoul, freeing the heart from anxious ſolicitudes and turbulent deſires; and diſpelling its fears: let your manners, your tempers, and conduct be ſuch as right reaſon requires. Look not upon this part of philoſophy as matter of oſtentation, or ſhew of knowledge, but as the moſt ſacred law of life and conduct, which none can deſpiſe with impunity, or without impiety towards God: and whoſe precepts whoever ſeriouſly endeavours to obey, as far as he is capable, ſhews the trueſt worth and excellence, and the higheſt wiſdom; and is truly the moſt proſperous as to his greateſt intereſts in life.*

CHooſe the beſt courſe of life, and cuſtom will make it the moſt pleaſant. *Pythagoras.*

Aſſume to yourſelf to live like a perfect man, or one who has made great proficiency in philoſophy, and let it be an inviolable law, to act the part that appears moſt virtuous. *Epictetus*

Other animals are committed to the government of men but God has committed men to the government of their own natural conſcience. This governor we never ſhould diſobey, for it is offenſive to God, and makes us enemies to the conſcience within us. *Epictet. Fragm.*

Chooſe rather to correct your own paſſions, than to be corrected and puniſhed on their account. *The ſame author.*

In this one thing delight and reſt yourſelf, in going on conſtantly from one ſocial action to another with remembrance of the Deity. *Marcus Antonin.*

In every deſign, or attempt whether great or ſmall we ought to invoke God. *Plato.*

Give joy to the immortal Gods and thoſe that love you. *An unknown Poet in Antonin.*

THE

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A SHORT INTRODUCTION TO MORAL PHILOSOPHY.

BOOK I.

THE ELEMENTS OF ETHICKS.

CHAP. I.

Of HUMAN NATURE *and its* PARTS.

AS all other arts have in view ſome good to be obtained, as their proper end, Moral Philoſophy, which is the art of regulating whole of life, muſt have in view the nobleſt end; e it undertakes, as far as human reaſon can go, to d us into that courſe of life which is moſt according the intention of nature, and moſt happy, to which whatever we can obtain by other arts ſhould be ſervient. Moral Philoſophy therefore muſt be one theſe commanding arts which directs how far the er arts are to be purſued. And ſince all Philoſo-ers, even of the moſt oppoſite ſchemes, agree in rds at leaſt, that "Happineſs either conſiſts in vir-tue and virtuous offices, or is to be obtained and

" ſecured by them:" The chief points to be enqui
into in Morals muſt be, what courſe of life is acco
ing to the intention of nature? wherein conſiſts h
pineſs? and what is virtue?

All ſuch as believe that this univerſe, and hum
nature in particular, was formed by the wiſdom a
counſel of a Deity, muſt expect to find in our ſtr
ture and frame ſome clear evidences, ſhewing t
proper buſineſs of mankind, for what courſe of li
what offices we are furniſhed by the providence a
wiſdom of our Creator, and what are the pro
means of happineſs. We muſt therefore ſearch ac
rately into the conſtitution of our nature, to ſee wh
ſort of creatures we are; for what purpoſes nature h
formed us; what character God our Creator requi
us to maintain. Now the intention of nature wi
reſpect to us, is beſt known by examining what th
things are which our natural ſenſes or percepti
powers recommend to us, and what the moſt exc
lent among them? and next, what are the aims
our ſeveral natural deſires, and which of them are
greateſt importance to our happineſs? In this inqu
we ſhall lightly paſs over ſuch natural powers as
treated of in other arts, dwelling chiefly upon th
which are of conſequence in regulating our morals.

In this art, as in all others, we muſt proceed from t
ſubjects more eaſily known, to thoſe that are more o
ſcure; and not follow the priority of nature, or the d
nity of the ſubjects: and therefore don't deduce our fi
notions of duty from the divine Will; but from t
conſtitution of our nature, which is more immediate
known

own; that from the full knowledge of it, we may diſ-
er the deſign, intention, and will of our Creator as to
conduct. Nor will we omit ſuch obvious evidences
our duty as ariſe even from the conſiderations of
preſent ſecular intereſts; tho' it will perhaps here-
r appear, that all true virtue muſt have ſome no-
ſpring than any deſires of worldly pleaſures or
ereſts.

II. FIRST then, Human nature conſiſts of ſoul and
dy, each of which has its proper powers, parts, or
ulties. The inquiry into the body is more eaſy,
belongs to the Phyſicians. We only tranſiently
ſerve, that it is plainly of a more noble * ſtructure
n that of other animals. It has not only organs of
ſe and all parts requiſite either for the preſervation
the individual or of the ſpecies, but alſo ſuch as are
uiſite for that endleſs variety of action and motion,
ich a rational and inventive ſpirit may intend, and
ſe organs formed with exquiſite art. One cannot
it the dignity of its erect form, ſo plainly fitted for
arged contemplation; the eaſy and ſwift motions
the joints; the curious ſtructure of the hand, that
at inſtrument of all ingenious arts; the countenance,
eaſily variable as to exhibit to us all the affections
the ſoul; and the organs of voice, ſo nicely fitted
ſpeech in all its various kinds, and the pleaſure of
rmony. Theſe points are more fully explained by
natomiſts.

This curious frame of the human body we all ſee to
fading and periſhing; needing daily new recruits by

 food,

* See this explained by Dr. Cumberland, *de Lege Naturae.*

food, and conſtant defence againſt innumerable d gers from without, by cloathing, ſhelter, and ot conveniencies. The charge of it therefore is comm ted to a ſoul endued with forethought and ſagac which is the other, and by far the nobler part in conſtitution.

III. THE parts or powers of the ſoul, which p ſent us with a more glorious view, are of various kin * but they are all reducible to two claſſes, the *Und ſtanding* and the *Will*. The former contains all powers which aim at knowledge; the other all deſires purſuing happineſs and eſchewing miſery.

We ſhall but briefly mention the ſeveral operati of the underſtanding, becauſe they are ſufficiently t ted of in Logicks and Metaphyſicks. The firſt in der are the *ſenſes:* under which name we include e ry "conſtitution or power of the ſoul, by which "tain feelings, ideas or perceptions are raiſed u "certain objects preſented." Senſes are either *ternal*, or *internal* and mental. The external dep on certain organs of the body, ſo conſtituted that pon any impreſſion made on them, or motion exci whether by external impulſes or internal forces in body, a certain feeling or notion is raiſed in the ſ The feelings are generally either agreeable, or at not uneaſy, which enſue upon ſuch impreſſions changes as are uſeful or not hurtful to the body:

* Concerning human nature, beſide *Ariſtotle*'s moral w ings, *Nemeſius de homine*, *Locke*, and *Malebranch*; many cellent obſervations are made in *Cicero*'s 5th book *de fi Arrian*, and *Lord Shaftesbury*'s *Inquiry*, and *Rhapſody*.

ſy feelings enſue upon thoſe which are deſtructive urtful.

ho' bodily pleaſure and pain affect the ſoul pretty mently, yet we ſee they are of ſhort duration and ing; and ſeldom is the bare remembrance of paſt y pleaſures agreeable, or the remembrance of paſt in it ſelf uneaſy, when we apprehend no returns em.

y theſe ſenſes we acquire the firſt notions of *good evil*. Such things as excite grateful ſenſations of kind, we call *good*; what excites painful or unea- nſations, we call *evil*. Other objects alſo when eived by ſome other kinds of ſenſes, exciting al- reeable feelings, we likewiſe call good, and their raries evil. *Happineſs* in general, is "a ſtate herein there is plenty of ſuch things as excite theſe ateful ſenſations of one kind or other, and we are e from pain." *Miſery* conſiſts in "frequent and ing ſenſations of the painful and diſagreeable ſorts, cluding all grateful ſenſations."

here are alſo certain perceptions dependent on bo- organs, which are of a middle nature as to plea- or pain, having a very ſmall degree of either join- mediately with them: theſe are the perceptions hich we diſcern the primary qualities of external ts and any changes befalling them, their magni- figure, ſituation, motion or reſt: all which are ned chiefly by *ſight* or *touch*, and give us neither ure nor pain of themſelves; tho' they frequently ate to us ſuch events as occaſion deſires or averſi- joys or ſorrows.

Bodily

Bodily pleaſures and pains, ſuch as we have in co
mon with the brutes, are of ſome importance to o
happineſs or miſery. The other claſs of perceptio
which inform us of the qualities and ſtates of thi
external to us, are of the higheſt uſe in all exter
action, in the acquiring of knowledge, in learning a
practiſing the various arts of life.

Both theſe kinds of external perceptions may be c
led *direct* and *antecedent*, becauſe they preſuppoſe
previous ideas. But there's another claſs of percep
ons employed about the objects of even the exter
ſenſes, which for diſtinction we call *reflex* or *ſubſequ*
becauſe they naturally enſue upon other ideas pre
ouſly received: of theſe preſently. So much for e
ternal ſenſation.

IV. INTERNAL ſenſes are thoſe powers or det
minations of the mind, by which it perceives or is co
ſcious of all within itſelf, its actions, paſſions, ju
ments, wills, deſires, joys, ſorrows, purpoſes of a
on. This power ſome celebrated writers call *conſci*
neſs or *reflection*, which has for its objects the qu
ties, actions or ſtates of the mind itſelf, as the ex
nal ſenſes have things external. Theſe two claſſes
ſenſation, external and internal, furniſh our whole ſt
of ideas, the materials about which we exerciſe t
nobleſt power of *reaſoning* peculiar to the hum
ſpecies. This alſo deſerves a fuller explication, b
it belongs to Logick.

'Tis by this power of reaſon, that the ſoul perce
the relations and connexions of things, and their co
ſequences and cauſes; inferrs what is to enſue,
wh

t preceded; can diſcern reſemblances, conſider in view the preſent and the future, propoſe to itſelf a le plan of life, and provide all things requiſite for it. y the exerciſe of reaſon it will eaſily appear, that whole univerſe was at firſt framed by the contri- ce and counſel of a moſt perfect intelligence, and ntinually governed by the ſame; that it is to him kind owe their preeminence above other animals he power of reaſon, and in all theſe excellencies ind or body, which clearly intimate to us the will r munificent Creator and Preſerver; and ſhew us ſort of offices, what courſe of life he requires of s accepta[b]e in his ſight.

V. SINCE then every ſort of good which is imme- ly of importance to happineſs, muſt be perceived ome immediate power or ſenſe, antecedent to a- pinions or reaſoning: (for 'tis the buſineſs of rea- g to compare the ſeveral ſorts of good perceived e ſeveral ſenſes, and to find out the proper means btaining them:) we muſt therefore carefully in- into the ſeveral ſublimer perceptive powers or s; ſince 'tis by them we diſcover what ſtate or e of life beſt anſwers the intention of God and re, and wherein true happineſs conſiſts. But we premiſe ſome brief conſideration of the *Will*, be- the motions of the will, our affections, deſires purpoſes, are the objects of theſe more ſubtile s, which perceive various qualities and important rences among them.

s ſoon as the mind has got any notion of good il by grateful or uneaſy ſenſations of any kind, there

there naturally ariſe certain motions of the *Will*, ſtinct from all ſenſation; to wit, *Deſires* of good, *Averſions* to evil. For there conſtantly appears, in very rational being, a ſtable eſſential propenſity to ſire its own happineſs, and whatever ſeems to ten it, and to avoid the contraries which would mak miſerable. And altho' there are few who have ſ ouſly inquired what things are of greateſt import to happineſs; yet all men naturally deſire what appears to be of any conſequence to this end, and the contrary: when ſeveral grateful objects occur which it cannot purſue together, the mind while calm, and under no impulſe of any blind appeti paſſion, purſues that one which ſeems of moſt im tance. But if there ſhould appear in any object a ture of good and evil, the ſoul will purſue or it, according as the good or the evil appears ſuper

Beſide theſe two calm primary motions of the W *deſire* and *averſion*, there are other two commonl ſcribed to it, to wit, *Joy* and *Sorrow*. But theſe are rather to be called new ſtates, or inner feeling ſenſes of the ſoul, than motions of the will natu exciting to action. In this manner however we m up theſe four ſpecies mentioned by the antients, referred to the *Will*, or *rational appetite*: when g to be obtained is in view, there ariſes *Deſire*; whe vil to be repelled, *Averſion*: when good is obta or evil avoided, ariſes *Joy*; when good is loſt, or befallen us, *Sorrow*.

VI. BUT beſide the calm motions or affections the ſoul and the ſtable deſire of happineſs, which

our reaſon for their conductor, there are alſo o-
s of a very different nature; certain vehement tur-
nt Impulſes, which upon certain occurrences natu-
agitate the ſoul, and hurry it on with a blind in-
iderate force to certain actions, purſuits, or efforts
void, exerted about ſuch things as we have never
berately determined to be of conſequence to hap-
ſs or miſery. Any one may underſtand what we
n by theſe blind impetuous motions who reflects
what he has felt, what violent propenſities hurried
on, when he was influenced by any of the keener
ions of luſt, ambition, anger, hatred, envy, love,
, or fear; without any previous deliberate opini-
bout the tendency of theſe objects or occurrences
ch raiſed theſe ſeveral paſſions to his happineſs or
ry. Theſe paſſions are ſo far from ſpringing from
previous calm deſire of happineſs, that we find
n often oppoſing it, and drawing the ſoul contra-
ways.

Theſe ſeveral paſſions the antients reduce to two
es, to wit, the *paſſionate Deſires*, and the corre-
dent *Averſions*; both which they teach to be quite
nct from the Will; the former aiming at the ob-
ing ſome pleaſure or other, and the latter the war-
off ſomething uneaſy. Both are by the ſchool-
ſaid to reſide in the *ſenſitive appetite*; which they
ivide into the * *concupiſcible* and *iraſcible*; and
r impulſes they call *Paſſions*. The *ſenſitive appe-*
is not a very proper name for theſe determinati-
of the ſoul, unleſs the ſchoolmen would uſe the

* ἐπιθυμία ϗ θυμὸς.

word *ſenſes* in a more extenſive ſignification, ſo a include many perceptive powers of an higher ſort t the bodily ſenſes. For 'tis plain that many of the m turbulent paſſions ariſe upon certain occurrences wh affect none of the external ſenſes; ſuch as ambiti congratulation, malicious joy, the keen paſſions ward glory and power, and many others, with turbulent averſions to their contraries. The ſch men however refer to this *ſenſitive appetite* all vehement inconſiderate motions of the will, which attended with confuſed uneaſy ſenſations, what their occaſions be.

Of theſe paſſions there are four general claſſes: as purſue ſome apparent good are called *paſſionat ſires* or *Cupidity*; ſuch as tend to ward off evil are led *Fears*, or *Anger*: ſuch as ariſe upon obtaining w was deſired or the eſcaping evil, are turbulent *Jo* and what ariſe upon the loſs of good, or the befal of evil, *Sorrows*. [nor have we in our language wo appropriated ſo as to diſtinguiſh between the ſer calm and paſſionate motions of the will.] Of e claſs there are many ſubdiviſions according to the riety of objects about which they are employed, wh will be further explained hereafter.

VII. THERE's alſo another diviſion of the moti of the will whether calm or paſſionate, according the advantage or pleaſure in view is for ourſelves others. That there is among men ſome diſintere goodneſs, without any views to intereſts of their ow but purſuing ultimately the intereſts of perſons be ved, muſt be evident to ſuch as examine well th

hearts, the motions of friendſhip or natural affec-
; and the love and zeal we have for worthy and
ent characters: or to ſuch as obſerve accurately
cares, the earneſt deſires, of perſons on their death-
, and their friendly offices to ſuch as they love even
their laſt breath: or, in the more heroic characters,
great actions and deſigns, and their marching
ingly and deliberately to certain death for their
dren, their friends, or their country.

The diſintereſted affections are either calm, or tur-
nt and paſſionate, even as the ſelfiſh in which one
ues what ſeems advantageous or pleaſant to him-
And the ſeveral affections or paſſions, whether
e ſimple or complicated, have a variety of names
eir objects are various, as they regard one's ſelf,
gard others, and their characters, fortunes, en-
ments, and the ſeveral ſocial bonds with us or with
other; or the enmities or diſſentions by which
are ſet at variance; or as their former conduct
eſigns have occaſioned theſe events which excite
paſſions.

Theſe particular kind paſſions are quite different
any calm general good-will to mankind, nor do
at all ariſe from it. They naturally ariſe, with-
premeditation or previous volition, as ſoon as that
es or occaſion occurs which is by nature adapted
aiſe them. We ſhall have a more proper place to
ain them a little furher after we have mentioned
more ſublime perceptive powers; without the
wledge of which many motions of the will muſt
ain unknown.

What any ſenſe immediately reliſhes is deſired
itſelf ultimately; and happineſs muſt conſiſt in the
ſeſſion of all ſuch objects, or of the moſt impor
and excellent ones. But when by the uſe of our
ſon we find that many things which of themſel
give no pleaſure to any ſenſe, yet are the neceſ
means of obtaining what is immediately pleaſant
deſirable, all ſuch *proper means* ſhall alſo be deſi
on account of their *ends*. Of this claſs are, an ex
ſive influence in ſociety, riches, and power.

But as beſide the ſeveral particular paſſions of
ſelfiſh kind there is deeply rooted in the ſoul a ſte
propenſity or impulſe toward its own higheſt
pineſs, which every one upon a little reflection
find, by means whereof he can repreſs and gover
the particular ſelfiſh paſſions, when they are any
oppoſite to it; ſo whoſoever in a calm hour tak
full view of human nature, conſidering the conſti
ons, tempers, and characters of others, will find a
general propenſion of ſoul to wiſh the univerſal pro
rity and happineſs of the whole ſyſtem. And wh
ever by frequent impartial meditation cultivates
extenſive affection, which the inward ſenſe of his
conſtantly approves in the higheſt degree, may m
it ſo ſtrong that it will be able to reſtrain and go
all other affections, whether they regard his own
pineſs or that of any ſmaller ſyſtem or party.

VIII. HAVING given this ſummary view of
Will, we next conſider theſe ſenſes we called *refl*
ſubſequent, by which certain new forms or perce
ons are received, in conſequence of others previo
obſer

rved by our external or internal ſenſes; and ſome
em enſuing upon obſerving the fortunes of others,
he events diſcovered by our reaſon, or the teſtimo-
of others. We ſhall only tranſiently mention ſuch
hem as are not of much importance in morals, that
may more fully explain thoſe which are more ne-
ary.

The external ſenſes of Sight and Hearing we have in
mon with the Brutes. but there's ſuperadded to
human Eye and Ear a wonderful and ingenious
ſh or Senſe, by which we receive ſubtiler pleaſures;
aterial forms *gracefulneſs*, *beauty* and *proportion*;
ounds *concord* and *harmony*; and are highly de-
ted with obſerving exact *Imitation* in the works
he more ingenious arts, Painting, Statuary and
pture, and in motion and Action; all which af-
us far more manly pleaſures than the external ſen-
Theſe are the Pleaſures to which many arts
mechanic and liberal are ſubſervient; and men
ue them even in all that furniture, thoſe utenſils,
ch are otherways requiſite for the conveniency of
And the very *grandeur* and *novelty* of objects
te ſome grateful perceptions not unlike the for-
, which are naturally connected with and ſubſer-
t to our deſires of knowledge. Whatever is grate-
to any of theſe perceptive powers is for it ſelf de-
ble, and may on ſome occaſions be to us an ulti-
e end. For, by the wiſe contrivance of God, our
es and appetites are ſo conſtituted for our happi-
, that what they immediately make grateful is ge-
nerally

nerally on other accounts alſo uſeful, either to o
ſelves or to mankind.

Among theſe more humane pleaſures, we muſt
omit that enjoyment moſt peculiarly ſuited to hu
nature, which ariſes from the diſcovery of Truth,
the enlarging of our knowledge; which is ultima
deſirable to all; and is joyful and pleaſant in prop
tion to the dignity of the ſubject, and the evide
or certainty of the diſcovery.

IX. THERE are other ſtill more noble ſenſes
more uſeful: ſuch is that *ſympathy* or fellow-feel
by which the ſtate and fortunes of others affect us
ceedingly, ſo that by the very power of nature,
vious to any reaſoning or meditation, we rejoice in
proſperity of others, and ſorrow with them in t
misfortunes; as we are diſpoſed to mirth when we
others chearful, and to weep with thoſe that w
without any conſideration of our own Intereſts. He
it is that ſcarce any man can think himſelf ſufficie
happy tho' he has the fulleſt ſupplies of all things
quiſite for his own uſe or pleaſure: he muſt alſo h
ſome tolerable ſtores for ſuch as are dear to him; f
their miſery or diſtreſſes will neceſſarily diſturb his
happineſs.

By means of this ſympathy and of ſome diſintere
affections, it happens, as by a ſort of contagion or
fection, that all our pleaſures, even theſe of the lo
kind, are ſtrangely increaſed by their being ſhared w
others. There's ſcarce any chearful or joyful comm
tion of mind which does not naturally require to
diffuſed and communicated. Whatever is agreeab
pleaſa

nt, witty, or jocoſe naturally burns forth, and
s out among others, and muſt be imparted. Nor
e other hand is there any thing more uneaſy or
ous to a man than to behold the diſtreſſing toils,
griefs, or miſery of others, eſpecially of ſuch
ve deſerved a better Fate.

BUT further: that man was deſtined by nature
ction plainly appears by that multitude of active
cts and deſires natural to him; which is further
med by that deeply implanted ſenſe approving
ndemning certain actions. The ſoul naturally de-
action; nor would one upon any terms conſent
caſt into a perpetual ſtate of ſleep, tho' he were
d of the ſweeteſt dreams. If a ſleep like that of
ymion were to befal our ſelves or any perſon dear
we would look upon it as little better than
h. Nature hath therefore conſtituted a certain
or natural *taſte* to attend and regulate each ac-
power, approving that exerciſe of it which is
agreeable to nature and conducive to the gene-
tereſt. The very brute animals, tho' they have
of theſe reflex ſenſes we mentioned, yet by cer-
inſtincts, even previouſly to any experience or
ct of pleaſure, are led, each according to its
to its natural actions, and finds in them its chief
ctions. Human nature is full of like inſtincts;
eing endued with reaſon and the power of re-
g on their own ſentiments and conduct, they
alſo various reflex ſenſes with a nice diſcernment
and

o in the old fable continued to live, but never awoke
a ſleep he was caſt into by Diana.

and reliſh of many things which could not be obſer by the groſſer ſenſes, eſpecially of the exerciſe of t natural powers. By theſe ſenſes that applicatio our natural powers is immediately approved whic moſt according to the intention of nature, and wi is moſt beneficial either to the individual or to m kind; and all like application by others is in like m ner approved, and thus made matter of joy and g rying. In the very poſture and motion of the bo there is ſomething which immediately pleaſes, w ther in our own, or that of others: in the voice geſture, and the various abilities of body or m in the ingenious arts of imitation, in external tions and exerciſes, whether about ſerious buſine recreations, we diſcern ſomething graceful and m ly, and the contrary ungraceful and mean, even w out any appearance of moral virtue in the one, or in the other. But ſtill it is chiefly in theſe abilities exerciſes which are peculiar to mankind that grace dignity appear; ſuch as we have in common w beaſts appear of leſs dignity. And among the hu purſuits which yet are different from moral virtues, purſuits of knowledge are the moſt venerable. We all naturally inquiſitive and vehemently allured by diſcovery of truth. Superior knowledge we count ry honourable; but to miſtake, to err, to be ignora to be impoſed upon, we count evil and ſhameful.

But to regulate the higheſt powers of our nat our affections and deliberate deſigns of action in portant affairs, there's implanted by nature the no and moſt divine of all our ſenſes, that *Conſcience* wh

ch we discern what is graceful, becoming, beauti-
nd honourable in the affections of the soul, in our
luct of life, our words and actions. By this sense,
rtain turn of mind or temper, a certain course of
on, and plan of life is plainly recommended to us
nature; and the mind finds the most joyful feel-
in performing and reflecting upon such offices as
sense recommends; but is uneasy and ashamed in
cting upon a contrary course. Upon observing the
honourable actions or designs in others, we natural-
vour and praise them; and have an high esteem,
goodwill, and endearment toward all in whom we
rn such excellent dispositions: and condemn and
t those who take a contrary course. What is ap-
ed by this sense we count *right* and *beautiful*, and
t *virtue*; what is condemned, we count *base* and
rmed and *vitious*.

The Forms which move our approbation are, all
affections and purposes of action; or such pro-
ions, abilities, or habits of mind as naturally flow
a kind temper, or are connected with it; or shew
igher taste for the more refined enjoyments, with
w regard to the meaner pleasures, or to its own in-
ts; or lastly such dispositions as plainly exclude a
ow contracted selfishness aiming solely at its own
ests or sordid pleasures. The forms disapproved
either this immoderate selfishness; or a peevish,
y, envious or ill-natured temper, leading us natu-
to hurt others; or a mean selfish sensuality.

That this sense is implanted by nature, is evident
this that in all ages and nations certain tempers

and actions are univerſally approved and their contra
condemned, even by ſuch as have in view no inte
of their own. Many artful accounts of all this as ſpr
ing from views of intereſt have been given by ing
ous men; but whoſoever will examine theſe accou
will find that they rather afford arguments to the c
trary, and lead us at laſt to an immediate natural p
ciple prior to all ſuch views. The agent himſelf p
haps may be moved by a view of advantages of
ſort accruing only to himſelf, to approve his own
ful conduct; but ſuch advantages won't engage
approbation of others: and advantages accruing t
thers, would never engage the agent, without a
ral ſenſe, to approve ſuch actions. How much ſo
the agent may be moved by any views of his own
tereſt; yet this when 'tis known plainly diminiſhe
beauty of the action, and ſometimes quite deſtroy
Men approve chiefly that beneficence which they c
gratuitous and diſintereſted; what is pretended,
yet only from views of private intereſt, they ab
When the agent appears to have in view the more
vious intereſts of getting glory, popularity, or ga
returns, there appears little or nothing honour
'Tis well known that ſuch advantages are attain
by external actions, and hypocritical ſhews, with
any real inward goodneſs.

But further, does not every good action appear
more honourable and laudable the more toilſome,
gerous or expenſive it was to the undertaker?
plain therefore that a virtuous courſe is not appro
under that notion of its being *profitable to the ag*

is it approved under the notion of *profitable to who approve it*, for we all equally praiſe and re any glorious actions of antient Heroes from h we derive no advantage, as the like done in own times. We approve even the virtues of an y that are dreaded by us, and yet condemn the l ſervices of a Traytor, whom for our own inte- we have bribed into perfidy. Nay the very Diſſo- frequently diſlike the vices of others which are rvient to their own.

Nor can it be alleged that the notion under which pprove actions is their tendency to obtain applauſe wards: for this conſideration could recommend only to the agent. And then, whoever expects e muſt imagine that there is ſomething in cer- actions or affections, which in its own nature ap- laudable or excellent both to himſelf and o- : whoever expects rewards or returns of good of- muſt acknowledge that goodneſs and beneficence rally excite the love of others. None can hope Rewards from God without owning that ſome ac- are acceptable to God in their own nature; nor d divine puniſhments except upon a ſuppoſition of tural *demerit* in evil actions. When we praiſe the e Laws as holy, juſt and good, 'tis plainly on this unt, that we believe they require what is antece- ly conceived as morally good, and prohibit the rary, otherwiſe theſe Epithets would import no- g laudable.

That this ſenſe is implanted by nature, and that affections and actions of themſelves, and in their

own nature, muſt appear to us right, honourab
beautiful and laudable, may appear from many of
moſt natural affections of the Will, both calm and p
ſionate, which are naturally raiſed without any vi
of our own advantage, upon obſerving the cond
and characters and fortunes of others; and thus pl
ly evidence what Temper nature requires in us.
theſe we ſhall ſpeak preſently. This moral ſenſe
fuſes it ſelf through all conditions of life, and every p
of it; and inſinuates it ſelf into all the more hum
amuſements and entertainments of mankind. Po
and Rhetorick depend almoſt entirely upon it; a
in a great meaſure the arts of the Painter, Statu
and Player. In the choice of friends, wives, comra
it is all in all; and it even inſinuates it ſelf into
games and mirth. Whoſoever weighs all theſe th
fully will agree with *Ariſtotle* "That as the H
"is naturally fitted for ſwiftneſs, the Hound for
"chace, and the Ox for the plough, ſo man, li
"ſort of mortal Deity, is fitted by nature for kn
"ledge, and action."

Nor need we apprehend, that according to
ſcheme which derives all our moral notions fro
ſenſe, implanted however in the ſoul and not de
dent on the body, the dignity of virtue ſhould be
paired. For the conſtitution of nature is ever ſi
and harmonious: nor need we fear that any ch
in our conſtitution ſhould alſo change the natu
virtue, more than we ſhould dread the diſſolutio
the Univerſe by a change of the great princip
Gravitation. Nor will it follow from this ſch

all ſorts of affections and actions were originally ferent to the Deity, ſo that he could as well made us approve the very contrary of what we approve, by giving us ſenſes of a contrary na-

For if God was originally omniſcient, he muſt foreſeen, that by his implanting kind affections, active ſpecies capable of profiting or hurting each , he would conſult the general good of all; and implanting contrary affections would neceſſarily the contrary effect: in like manner by implant- ſenſe which approved all kindneſs and benefi- , he foreſaw that all theſe actions would be made diately agreeable to the agent, which alſo on accounts were profitable to the ſyſtem; where- ontrary ſenſe (whether poſſible or not we ſhall not mine,) would have made ſuch conduct immedi- pleaſing, as muſt in other reſpects be hurtful both e agent and the ſyſtem. If God therefore was ally wiſe and good, he muſt neceſſarily have pre- the preſent conſtitution of our ſenſe approving dneſs and beneficence, to any contrary one; and ature of virtue is thus as immutable as the divine om and Goodneſs. Caſt the conſideration of theſe tions of God out of this queſtion, and indeed ng would remain certain or immutable.

. THERE are however very different degrees of bation and condemnation, ſome ſpecies of virtues more beautiful than others, and ſome kinds of much more deformed. Theſe maxims generally

" Among the kind motions of the Will of e- al extent, the calm and ſtable are more beautiful than

" than the turbulent or paſſionate." And when
compare calm affections among themſelves, or the p
ſionate among themſelves, " the more extenſive
" the more amiable, and theſe moſt excellent wh
" are moſt extenſive, and purſue the greateſt happi
" of the whole ſyſtem of ſenſitive nature."

It was already obſerved that our eſteem of vir
in another, cauſes a warmer affection of good-will
ward him: now as the ſoul can reflect on all its pow
diſpoſitions, affections, deſires, ſenſes, and make th
the objects of its contemplation; a very high re
for moral excellence, a ſtrong deſire of it, and a ſtr
endearment of heart toward all in whom we diſc
eminent virtues, muſt it ſelf be approved as a moſt
tuous diſpoſition; nor is there any more lovely t
the higheſt love towards the higheſt moral ex
lency. Since then God muſt appear to us as the
preme excellence, and the inexhauſtible fountain
all good, to whom mankind are indebted for innu
rable benefits moſt gratuitouſly beſtowed; no affec
of ſoul can be more approved than the moſt ar
love and veneration toward the Deity, with a ſte
purpoſe to obey him, ſince we can make no other
turns, along with an humble ſubmiſſion and reſig
tion of ourſelves and all our intereſts to his will, w
confidence in his goodneſs; and a conſtant purpoſ
imitating him as far as our weak nature is capable

The objects of our condemnation are in
manner of different degrees. Ill-natured unkind
fections and purpoſes are the more condemned
more ſtable and deliberate they are. Such as

n any ſudden paſſionate deſire are leſs odious; and more excuſable are thoſe which flow from ſome den fear or provocation. What we chiefly diſap- ve is that ſordid ſelfiſhneſs which ſo engroſſes the as to exclude all human ſentiments of kindneſs, ſurmounts all kind affections; and diſpoſes to a- ſort of injuries for one's own intereſts.

We juſtly alſo reckon Impiety toward God to be the ateſt depravation of mind, and moſt unworthy of a onal Being, whether it appears in a direct con- pt of the Deity; or in an entire neglect of him, hat one has no thoughts about him, no venerati- no gratitude toward him. Nor is it of any avail er to abate the moral Excellence of Piety, or the rmity of impiety, to ſuggeſt that the one cannot it him, nor the other hurt him. For what our ſcience or moral ſenſe chiefly regards are the affec- s of the heart, and not the external effects of them. t man muſt be deemed corrupt and deteſtable who not a grateful heart toward his benefactor, even n he can make no returns: who does not love, ſe and celebrate the virtues of even good men, perhaps he has it not in his power to ſerve or pro- e them. Where there is a good heart, it natural- diſcovers itſelf in ſuch affections and expreſſions, ther one can profit thoſe he eſteems and loves or

These points are manifeſt to the inward ſenſe very good man without any reaſoning.

XII. THIS nobler ſenſe which nature has deſigned to he guide of life deſerves the moſt careful conſide- on, ſince it is plainly the judge of the whole of life,

of

of all the various powers, affections and deſigns, naturally aſſumes a juriſdiction over them; pronouncing that moſt important ſentence, that in the virtue themſelves, and in a careful ſtudy of what is beautiful and honourable in manners, conſiſts our true dignity, and natural excellence, and ſupreme happineſs. Thoſe who cultivate and improve this ſenſe find that it can ſtrengthen them to bear the greateſt external evils, and voluntarily to forfeit external advantages, by adhering to their duty toward their friends, their country, or the general intereſt of all: and that in ſo doing alone it is that they can throughly approve themſelves and their conduct. It likewiſe puniſhes with ſevere remorſe and ſecret laſhes ſuch as diſobey the natural government conſtituted in the ſoul, or deſert through any fear, or any proſpect of ſecular advantages, the Duties which it requires.

That this Divine Senſe or Conſcience naturally approving theſe more extenſive affections ſhould be the governing power in man, appears both immediately from its own nature, as we immediately feel that it naturally aſſumes a right of judging, approving or condemning all the various motions of the ſoul; as appears from this that every good man applauds himſelf, approves entirely his own temper, and is then beſt pleaſed with himſelf when he reſtrains not only the low ſenſual appetites, but even the more ſublime ones of a ſelfiſh kind, or the more narrow and contracted affections of love toward kindred, or friends, or even country, when they interfere with the more extenſive intereſts of mankind, and the common proſperity

Our inward conſcience of right and wrong not
y preſers the moſt diffuſive goodneſs to all other af-
tions of ſoul, whether of a ſelfiſh kind, or of nar-
ver endearment: but alſo abundantly compenſates
loſſes incurred, all pleaſures ſacrificed, or expences
ained on account of virtue, by a more joyful conſci-
neſs of our real goodneſs, and merited glory; ſince
theſe loſſes ſuſtained increaſe the moral dignity and
uty of virtuous offices, and recommend them the
re to our inward ſenſe: * which is a circumſtance
culiar to this caſe, nor is the like found in any other
ſe, when it conquers another of leſs power than its
n. And further, whoever acts otherways cannot
oughly approve himſelf if he examines well the in-
rd ſenſe of his ſoul: when we judge of the characters
conduct of others, we find the ſame ſentiments

* What the Author here intends is obvious, and of ſuch
portance as deſerves a fuller explication. In a voluptuous
the more a man has impaired his health, his fortune, his
aracter, or the more he has obſtructed his progreſs in know-
ge, or in the more elegant pleaſures, the more alſo he muſt
ndemn and be diſſatisfied with his own temper and con-
ct, and ſo muſt every obſerver. In the purſuits of honours
power, or the ſplendor of life; the more one has im-
ired his fortune or health, and the more of his natural plea-
es and enjoyments he has ſacrificed to theſe purpoſes, the
re he muſt be diſſatisfied with his own meaſures, and be
approved by others. But in following the dictates of con-
ence, in adhering to his duty and the practice of virtue,
greater ſacrifice he has made of all other enjoyments, the
re he himſelf and all others approve his conduct and tem-
, and he anſwers the more compleatly the wiſhes and ex-
ctations of all who love and eſteem him.

of them: nay, this ſubordination of all to the
extenſive intereſts is what we demand from them;
do we ever fail in this caſe to condemn any contra
conduct; as in our judgments about others we
under no byaſs from our private paſſions and intere
And therefor altho' every event, diſpoſition, or acti
incident to men may in a certain ſenſe be called *nat*
ral; yet ſuch conduct alone as is approved by this
viner faculty, which is plainly deſtined to comma
the reſt, can be properly called *agreeable* or *ſuitab*
our nature.

XIII. With this moral ſenſe is naturally connect
that other of Honour and Shame, which makes
approbations, the gratitude, and eſteem of others w
approve our conduct, matter of high pleaſure;
their cenſures, and condemnation, and infamy, ma
of ſevere uneaſineſs; even altho' we ſhould have
hopes of any other advantages from their approbatio
or fears of evil from their diſlike. For by this ſe
theſe things are made good or evil immediately and
themſelves: and hence it is that we ſee many ſolicit
about a ſurviving fame, without any notion that af
death they ſhall have any ſenſe of it, or advantage
it. Nor can it be ſaid * that we delight in the pra
of others only as they are a teſtimony to our virtue a
confirm the good opinion we may have of our ſelv
for we find that the very beſt of mankind, who are
bundantly conſcious of their own virtues, and ne
no ſuch confirmation, yet have pleaſure in the pra
they obtain.

T

* This is ſuggeſted by Ariſtotle *Ethic. ad Nicom.* L. i.

That there's a natural ſenſe of honour and fame, nded indeed upon our moral ſenſe, or preſuppoſing but diſtinct from it and all other ſenſes, ſeems ma- eſt from that natural modeſty, which diſcovers itſelf the very countenance in bluſhing; which nature plainly deſigned as a guardian not only to moral tue, but to all decency in our whole deportment, a watchful check upon all the motions of the low- ppetites. And hence it is that this ſenſe is of ſuch portance in life, by frequently exciting men to what onourable, and reſtraining them from every thing onourable, baſe, flagitious, or injurious.

In theſe two ſenſes, of moral good and evil, and of our and ſhame, mankind are more uniformly con- ted than in the other ſenſes; which will be mani- if the ſame immediate forms or ſpecies of actions propoſed to their judgment; that is, if they are ſidering the ſame affections of heart whether to be roved or condemned, they would univerſally agree. ndeed they have contrary opinions of happineſs, or he external means of promoting or preſerving it, then no wonder, however uniform their moral ſes be, that one ſhould approve what another con- nns. Or if they have contrary opinions about the ine Laws, ſome believing that God requires what ers think he forbids, or has left indifferent; while agree that it is our duty to obey God: or laſtly, hey entertain contrary opinions about the charac- of men or parties; ſome believing that ſect or par- to be honeſt, pious and good, which others take to avage or wicked. On theſe accounts they may

have the moſt oppoſite approbations and condemna-
ons, tho' the moral ſenſe of them all were unifor
approving the ſame immediate object, to wit, the ſa
tempers and affections.

XIV. WHEN by means of theſe ſenſes, ſome o
jects muſt appear beautiful, graceful, honourable,
venerable, and others mean and ſhameful; ſhould
happen that in any object there appeared a mi
ture of theſe oppoſite forms or qualities, there wo
appear alſo another ſenſe, of the *ridiculous*. A
whereas there's a general preſumption of ſome dig
ty, prudence and wiſdom in the human ſpecies; i
conduct of theirs will raiſe laughter as ſhews "
"mean error or miſtake, which yet is not attend
"with grievous pain or deſtruction to the perſon
for all ſuch events would rather move pity. Lau
ter is a grateful commotion of the mind; but to
the object of laughter or mockery is univerſally di
greeable, and what men from their natural deſire
eſteem carefully avoid.

Hence ariſes the importance of this ſenſe or diſ
ſition, in refining the manners of mankind, and c
recting their faults. Things too of a quite differ
nature from any human action may occaſion laugh
by exhibiting at once ſome venerable appearance,
long with ſomething mean and deſpicable. From
ſenſe there ariſe agreeable and ſometimes uſeful en
tainments, grateful ſeaſoning to converſation, and
nocent amuſements amidſt the graver buſineſs of l

XV. THESE various ſenſes men are indued w
conſtitute a great variety of things good or evil;
wh

h may be reduced to theſe three claſſes, the goods e ſoul, the goods of the body, and the goods of ne or external ones. The goods of the ſoul are nuity and acuteneſs, a tenacious memory, the ſci- and arts, prudence, and all the *voluntary vir-* or good diſpoſitions of Will. The goods of the are, perfect organs of ſenſe, ſtrength, ſound h, ſwiftneſs, agility, beauty. External goods are ty, honours, power, wealth. Now as all objects eful to any ſenſe excite deſire, and their contraries averſion; the affections of the will, whether calm ſſionate, muſt be equally various. We already ioned the four general claſſes to which they may duced, to wit, *deſire*, *averſion*, *joy* and *ſorrow*: have we names ſettled to diſtinguiſh always the from the paſſionate, as there are in ſome other ages. But of each of theſe four there are many viſions, and very different kinds, according to the different objects they have in view, and accord- s they are ſelfiſh or diſintereſted, reſpecting our fortunes or thoſe of others. And then among which reſpect the fortunes of others there are diverſities, according to the different characters ne perſons, their fortunes, and different attach- s, friendſhips or enmities, and their various cauſes. o purſue all theſe diſtinctions, and examine the al diviſions made by the learned, would be tedi- We ſhall briefly mention the principal Paſſions, the es of which are alſo often uſed for the calm ſted- ffections of the will; [nay the ſame name is often n to deſires and joys, to averſions and ſorrows.]

1. The

1. The ſeveral ſpecies of *deſire* of the ſelfiſh k reſpecting one's own body or fortune, are the na appetites of food, whether plainer or more exqui luſt, ambition, the deſires of praiſe, of high office wealth. Their contraries are repelled by the *a ons* of *fear* and *anger*, and theſe of various kinds.

The goods of the ſoul we purſue in our deſire knowledge, and of virtue, and in emulation of wo characters. Their contraries we avoid by the *a ons* of ſhame and modeſty; we are on this ſubject ten at a loſs for appropriated names.

2. The diſintereſted *Deſires* reſpecting any ſo proſperity to others, are benevolence or good- parental affections, and thoſe toward kinſmen. affections of *deſire* toward worthy characters, a vour or good wiſhes, zealous veneration, grati The *averſions* raiſed by their misfortunes are fear, ger, compaſſion, indignation. The proſperity o characters moves the *averſions* of envy and indig tion.

3. The ſeveral ſpecies of *Joy* reſpecting one's proſperous fortunes, are delectation, pride, arroga oſtentation. And yet a long poſſeſſion of any ad tages of the body or fortune often produces ſatiety diſguſt. From the contrary Evils ariſe ſorrow, v tion, deſpair. *Anger* indeed by the Antients i ways made a ſpecies of *deſire*, to wit, that of pu ing ſuch as we apprehend have been injurious.

From our poſſeſſing the goods of the ſoul, eſpec ly virtuous affections, ariſe the internal *joyful* appl of conſcience, an honourable pride and glorying. F

ontrary evils ariſe ſhame, remorſe, dejection, and
nneſs of ſpirit, which are ſpecies of *ſorrow*.
The virtues of others obſerved raiſe *joyful* love,
eſteem, and veneration, and where there's inti-
, the affections of Friendſhip. The vices of o-
move a ſort of *ſorrowful* hatred, contempt or
ation. The proſperity of the virtuous, or of our
actors, raiſes a *joyful* congratulation; their ad-
es raiſe grief, pity, and indignation. The ad-
es of the vitious often raiſe joy and triumph, and
roſperity grief and indignation.
hoever is curious to ſee large catalogues of the
l motions of the Will may find them in *Ariſtotle's*
ks, *Cicero's 4th Tuſcul.* and *Andronicus*. But from
s above mentioned 'tis manifeſt that there's ſome
l ſenſe of right and wrong, ſomething in the tem-
d affections we naturally approve for it ſelf, and
honourable and good; ſince 'tis from ſome ſuch
ſpecies or forms that many of the moſt natural
s ariſe; and oppoſite moral characters upon like
al events raiſe the moſt oppoſite affections, with-
y regard to the private intereſts of the obſerver.
VI. SOME of theſe affections are ſo rooted in na-
at no body is found without them. The appe-
oward the preſervation of the body are excited
y ſtage of life by the uneaſy ſenſations of hun-
d thirſt, and cold. The deſire of offſpring at
in age, and parental affection is alſo univerſal;
conſequence of them the like affections toward
n. The other affections when the objects are
ted are equally natural, tho' not ſo neceſſary.

The

The appearance of virtue in another raiſes love eſteem, friendſhip: Honourable deſigns are follo with favour, kind wiſhes, and zeal: their ſucc move joyful congratulation, and their diſappoint ſorrow and indignation; and the contrary affec attend the proſperity of the vicious, even tho' we prehend no advantage or danger to ourſelves on e ſide. Benefits received with a like natural force gratitude; and injuries, reſentment and anger; the ſufferings of the innocent, pity. We alſo juſtly natural the deſires of knowledge, of the ſeveral tues, of health, ſtrength, beauty, pleaſure, and ſuch things as are grateful to any ſenſe.

XVII. THERE are ſome other Parts of our c tution not to be omitted, which equally relate underſtanding and will. Such as that natural poſition to *aſſociate* or conjoin any ideas, or any tions, however diſparate or unlike, which at once made ſtrong impreſſions on our mind; ſo that ſoever any occaſion excites one of them, the will alſo conſtantly attend it, and that inſtantly vious to any deſire. To this aſſociation is owing moſt wholly our power of memory, or recalling events, and even the faculty of ſpeech. But ſuch aſſociations incautiouſly made we ſometime hurt in our tempers. The meaner pleaſures of and the objects of our lower appetites, acquire ſtrength this way, when we conjoin with them far nobler notions, tho' not naturally or neceſſari lied to them, ſo that they cannot eaſily be ſepa Hence by by ſome notions of elegance, ingenui

taſte, of prudence, liberality and beneficence, the rious ways of living obtain a much greater reputa-, and ſeem of much more importance to happineſs they really are. Hence 'tis of high conſequence in t manner the young are educated, what perſons are intimate with, and what ſort of converſation are inured to; ſince by all theſe, ſtrong aſſocia-s of ideas are formed, and the tempers often either nded or depraved.

Of a like nature to theſe are *Habits*, for ſuch is the re both of the ſoul and body that all our powers increaſed and perfected by exerciſe. The long or uent enjoyment of pleaſures indeed abates the nneſs of our ſenſe; and in like manner cuſtom a-s the feelings of pain. But the want of ſuch gra-ations or pleaſures as we have long been enured to ore uneaſy, and our regret the keener. And hence are more prone to any pleaſures or agreeable rſes of action they are accuſtomed to, and cannot aſily be reſtrained from them.

We have already ſhewed that whatever is ultimately reable muſt be the object of ſome immediate ſenſe. as men are naturally endued with ſome acuteneſs, thought, memory, reaſon, and wiſdom, they ſhall naturally deſire whatever appears as the proper *ns* of obtaining what is immediately deſireable; means are riches and power, which may be ſub-ient to all our deſires whether virtuous or vitious, evolent or malitious; and hence it is that they are niverſally deſired.

To finiſh this ſtructure of human Nature, ind with ſuch powers of Reaſon, ſuch ſublime percep powers, ſuch ſocial bonds of affection, God has ſuperadded the powers of ſpeech and eloquence, which we are capable of obtaining information of w we were ignorant of, and of communicating to ot what we know: by this power we exhort, by thi perſuade, by this we comfort the afflicted, and inf courage into the fearful; by this we reſtrain immo rate fooliſh tranſports, by this we repreſs the diffi deſires and paſſionate reſentments; this power has joined us in the bonds of juſtice and law and civil lity, this power has reclaimed Mankind from a and ſavage life.

Altho' all theſe ſeveral powers and faculties we h mentioned are ſo common to all mankind, that th are ſcarce any entirely deprived of any one of the yet there is a wonderful variety of tempers: ſinc different perſons different powers and diſpoſition prevail that they determine the whole courſe of t lives. In many the ſenſual appetites prevail; in ot there's an high ſenſe of the more humane and eleg pleaſures; in ſome the keen purſuits of knowledge, others either ambition or anxious avarice: in others kind affections, and compaſſion toward the diſtre and beneficence, with their conſtant attendants ſupporters, an high ſenſe of moral excellence and of virtue: others are more prone to anger, envy, the ill-natured affections. In the preſent ſtate of m kind which we plainly ſee is depraved and corr ſenſuality and mean ſelfiſh purſuits are the moſt uni

and thoſe enjoyments which the higher powers
mmend, the generality are but little acquainted
, or are little employed in examining or purſuing
m.

This diverſity of Tempers, ſometimes obſervable
the cradle, is ſtrangely increaſed by different cu-
s, methods of education, inſtruction, habits, and
rary examples; not to ſpeak of the different bo-
conſtitutions, which belong to the art of Medi-
. The ſame cauſes often concur to corrupt the
ners of men, tho' our depravation in our preſent
cannot wholly be aſcribed to them. For ſuch
e preſent condition of mankind, that none ſeem
e born without ſome weakneſſes or diſeaſes of the
, of one kind or other, tho' in different degrees.
ry one finds in himſelf the notion of a *truly good*
, to which no man ever comes up in his conduct.
the very beſt of mankind muſt acknowledge that
numerable inſtances they come ſhort of their du-
and of that ſtandard of moral goodneſs they find
in them. And altho' nature has given us all ſome
ſparks as it were to kindle up the ſeveral virtues;
ſown as it were ſome ſeeds of them; yet by our
bad conduct and fooliſh notions we ſeldom ſuffer
to grow to maturity. But a full and certain ac-
t of the original of theſe diſorders, and of the ef-
ual remedies for them, in all the different degrees
hich they appear in different perſons, will never
iven by any mortal without a divine revelation.
yet whoſoever will ſet himſelf heartily to inquire
the true happineſs of human nature, to diſcover

the fallacious appearances of it, and to cultivate t
nobler faculties of the ſoul, he will obtain a confid
able power over the ſeveral turbulent paſſions, and
mend or improve in a great degree his whole temp
and diſpoſition, whether it be what nature firſt gr
him, or what his former conduct and circumſtanc
have made it.

XVIII. THE conſideration of all that variety
Senſes or taſtes, by which ſuch a variety of obje
and actions are naturally recommended to mank
and of a like multiplicity of natural deſires; and all
them pretty inconſtant and changeable, and often j
ring with each other, ſome purſuing our own inter
or pleaſures of one or other of the various kinds m
tioned, and ſome purſuing the good of others; as
have alſo a great many humane kind affections: T
complex view, I ſay, muſt at firſt make human nat
appear a ſtrange chaos, or a confuſed combination
jarring principles, until we can diſcover by a cloſer
tention, ſome natural connexion or order among the
ſome governing principles naturally fitted to regul
all the reſt. To diſcover this is the main buſineſs
Moral Philoſophy, and to ſhew how all theſe parts
to be ranged in order: and we ſhall find that w
wonderful wiſdom

God and kind nature has this ſtrife compoſed.

Of this we may have ſome notion from what is abo
explained about that moral Power, that ſenſe of wh
is becoming and honourable in our actions. Nor ne
we long diſſertations and reaſoning, ſince by inwa
reflection and examining the feelings of our hearts, w
ſha

be convinced, that we have this moral power or ſcience diſtinguiſhing between right and wrong; ly deſtined and fitted to regulate the whole of which clearly diſcovers to us that courſe and con- which alone we can entirely approve; to wit, in which all kind affections are cultivated, and at ame time an extenſive regard maintained toward eneral happineſs of all; ſo that we purſue our intereſts, or thoſe of our friends, or kinſmen, no er than the more extenſive intereſts will allow; ys maintaining ſweetneſs of temper, kindneſs, and er affections; and improving all our powers of bo- r mind with a view to ſerve God and mankind. ſame moral ſenſe alſo filling the ſoul with the joyful ſatisfaction and inward applauſes, and with moſt cheering hopes, will ſtrengthen it for all good s, even tho' attended with toil and dangers, and rd our efforts with the moſt glorious recompenſe. ay our reaſon too reviewing the evidence exhibi- o us in the whole order of nature, will ſhew us the ſame courſe of life which contributes to the ral proſperity, procures alſo to the agent the moſt e and moſt worthy felicity; and generally tends rocure that competency of external things which good mind is in its kind the moſt joyful. The ſame n will ſhew us that the world is governed by the t and beſt Providence; and hence ſtill greater and joyful hopes will ariſe. We ſhall thence conclude all theſe practical truths diſcovered from reflecti- n our own conſtitution and that of Nature, have ature and force of divine Laws pointing out what

God

God requires of us, what is pleaſing to him, and what conduct we may obtain his approbation and vour. Hence the hopes of future happineſs after de and a ſtrength and firmneſs of ſoul in all honour deſigns. Hence the ſoul ſhall be filled with the joy Piety and Devotion; and every good mind ſhall pect every thing joyful and glorious under the pro tion of a good Providence, not only for itſelf but all good men, and for the whole univerſe. And w one is perſuaded of theſe Truths, then both our ſ and our ſelfiſh affections will harmoniouſly recom to us one and the ſame courſe of life and conduct

CH

CHAP. II.

Concerning the SUPREME GOOD.

AVING in the former chapter premiſed a pretty
full deſcription of human Nature and its ſeve-
wers, we proceed to inquire into the Supreme
or Evil, and wherein the chief Happineſs of
ind conſiſts, with the proper plan of life in order
tain it.

e ſhall lightly paſs over certain celebrated queſti-
bout the mutual powers of the *underſtanding* and
ver each other, which properly belong to Pneu-
s or Metaphyſicks. We only ſuggeſt in paſſing,
at what is wholly unknown cannot be the object
re, and yet there are certain natural propenſities
ncts in each ſpecies toward certain objects or ac-
as ſoon as it obtains any notion of them, and
ns to their contraries. Theſe the ſchoolmen call
ſt ſimple motions of Will. When theſe are ſo
as to call off the mind from any other objects
have been employed about, and ſurmount its
or any diſpoſitions to reſt, it raiſes alſo a deſire
ching out the proper means of obtaining the ob-
efired, and of diſcovering which of them are
ligible: and when this point is ſettled, then, ac-
g to the *Stoicks*, we are determined to execute
means, or there ariſes the *effectual purpoſe* of
. Many of the *Peripatetick*s deny that the Will
ainly determined to follow even the laſt *practi-*

cal

cal judgments, tho' it generally does ſo. They al
that it has an inherent power, notwithſtandin
judgments or deſires about the proper ends or m
of determining it ſelf to act or abſtain; nay ſome
that it can determine it ſelf to either of the contr
to purſue good, or to purſue evil even under th
tion. Let Metaphyſicians determine theſe points,
in general ſeems true that we cannot properly a
any active power to the *underſtanding*, about ou
duct in life. 'Tis its buſineſs only to diſcover t
whereas *willing*, *ordering*, *commanding*, *purpoſi*
acts of Will.

The *will* again ſeems to have no other powe
the *underſtanding* than this, that a man may as h
turn his underſtanding to conſider all the evide
either ſide, and where the higheſt evidence does
cur, he can ſuſpend any peremptory aſſent, and
upon a further hearing of the cauſe. But where
certain evidence appears, he cannot at pleaſure
hold his aſſent, or aſſent to the other ſide. Nay
on one ſide he ſees ſuperior probabilities, he ca
void judging that ſide to be more probable.

II. We alſo paſs over ſome ſpeculative queſ
bout the general notions of Good, and Final C
Ends, and their diviſions; as they are eaſy and
to other ſciences. Theſe maxims ſeem evident.
objects of deſire are purſued either ultimately fo
ſelves, or as means to ſomething further, or
accounts. 2. Whatever is ultimately deſirab
ther recommended by ſome immediate ſenſe
natural inſtinct or impulſe, prior to all reaſonin

finefs of reaſon to find out the *means* of obtaining we deſire: or if various objects of deſire interfere, uire which of them is of moſt importance to hap-, and what the beſt means of obtaining ſuch ob- 3. Things are recommended to our purſuit, un- e or other of theſe three forms or notions, either *aſant*, *profitable*, or *honourable*. Under the no- f pleaſure are ſuch things purſued in which we nly in view ſome grateful ſenſation to ourſelves; t moral writers ſeldom include under this branch *aſant*, either the moral virtues, or the ſciences genious arts. Theſe things are called *profitable* are deſired as means of ſomewhat further. The *rable* are the ſeveral virtues either intellectual or which recommend themſelves by their own pe- dignity, very different from the lower ſorts of es. 4. The importance or moment of any good our felicity depends on its dignity and durati- here's a great difference among the ſeveral ſorts d in point of dignity. When we compare to- the goods correſponding to ſenſes of the ſame ſuch as thoſe relating to the external ſenſes, gnity is juſt the intenſeneſs of the pleaſure in ſation. But the objects of the ſuperior ſenſes heir own peculiar excellence, not to be com- with the lower pleaſures, appearing of it ſelf, and the deſires of ſuch as know them; ſo that we e and praiſe, and count the perſons happy, and their conduct, who deſpiſe all bodily pleaſures parison with them. 'Tis thus we plainly judge man who prefers the joys of knowledge and of

virtue and virtuous action to all others, and de
himself entirely to them, in opposition to even the h
est sensual enjoyments.

To a rational being therefor who is indued
forethought these must be the characters of his sup
Good: "It must be something ultimately desirab
"which most other things are referable; which
"the highest dignity, which is stable or durable
"sufficient to satisfy or make happy.

III. IN our enquiries after happiness, which m
ther consist in the full enjoyment of all sorts of
or at least in that of the principal sorts, we mu
serve, that 'tis impossible for one to ensure to h
the full enjoyment of all sorts of pleasure, and a
munity from all evil. According to the uncertain
ing nature of human affairs, all external enjoy
must be uncertain. The objects themselves are
able; and our own tastes and relishes are chang
our health of body on which many enjoyments
is very unstable: external objects depend not
power, but as 'tis commonly said, are the G
Fortune, or more properly, depend upon the
Providence, which has ensured no man in the
possession of them.

Need we also mention that there are many
sistencies among the several enjoyments, so th
cannot vigorously pursue or enjoy them all: n
is the dignity of the superior enjoyments, th
scorn such conjunction with the lower; their
and highest joy arises from our having despise

ced to them the lower pleaſures, and even reſolute-
xpoſed our ſelves to toils and diſtreſſes on their ac-
t.

nce then there's no obtaining a full enjoyment of
orts of good, or avoiding of all evil, we muſt care-
enquire which ſorts of good are the moſt impor-
to happineſs, and what evils are the moſt grie-
, and moſt everſive of tranquillity and happineſs.
muſt therefor compare together the ſeveral goods
h affect the various ſenſes, and that both in re-
to dignity and duration: and in like manner com-
the ſeveral evils to diſcover which of them are moſt
ous and deſtructive.

. WE may here tranſiently notice, that tho' we
to *Hieronymus* of Rhodes, and ſome others of an-
y, that upon the mere removal of all pain there
ally enſues a ſtate in it ſelf grateful and pleaſant:
at a ſtable ſort of tranquillity and joy accompa-
intire immunity from uneaſy ſenſations, ſo kind
conſtitution of our nature, provided the mind is
ſturbed by any keen deſires or fears; ſo that their
is true, that wherever there's freedom from all
ere muſt be the poſſeſſion of ſome good: yet 'tis
hat beings endued with ſo many ſenſes and ac-
petites and deſires, cannot be made happy by
ndolence. This pleaſure is but of a low kind,
it any dignity; much leſs can it have ſuch force
he ſoul as to be the ſpring of our actions and
t in life. Happineſs therefor muſt depend upon
orts of goods ſuited to our perceptive powers.
re

In the firſt place 'tis plain that bodily pleaſures h none of that dignity which is the object of praiſe. W the ſenſations never ſo intenſe, yet they all are pla mean, and many of them ſhameful: they are tran too and fleeting; nor does the remembrance of p enjoyments give any ſuch pleaſure, or yield any matter of joy or glorying, which could allay any rows or diſtreſſes in life, or ſupport us under them.

Nor can it be juſtly alledged, that the common timents of mankind ſeem to make theſe the highe all, becauſe we ſee the greater part of men much voted to them alone. This is ſo far from truth, there are few to be found, who, when the ſervo their paſſions is a little cooled, won't own, that pleaſures are quite inſufficient to happineſs. The worthleſs characters have ſome imperfect notions of tues almoſt continually influencing them; ſome fri ſhips, ſome kind offices towards ſuch as either na or acquaintance hath attached to them, and wh they raſhly happen to eſteem. Nor can any one d himſelf happy in conſtant inactivity or ſenſual en ments: they muſt conjoin with them frequent acti and offices, which according to their notions are tuous. But, how ſtrong ſoever the lower appetites be in proportion to the nobler, yet ſtill that div faculty naturally deſtined to govern the reſt, and f whoſe dictates we are chiefly to judge of the intent of God and nature, rather ſcorns and rejects ſen enjoyments, as below the dignity of the rational ture, and will not allow them to make a part of true happineſs.

N

Need we further inſiſt that ſenſual pleaſures are al-
continually recommended by ſome borrowed co-
s of a moral kind, of friendſhip, humanity, bene-
ce, or an elegant taſte; otherways they would be
icable and ſhameful. Nay our conſcience or mo-
enſe ſeldom appears in oppoſition to them; ſince
he ſtrange deceit of the paſſions, we generally per-
e ourſelves of their innocence. But on the other
the virtues charm and make us happy by their
native beauty and dignity: nor are we to imagine
happineſs is found only in mirth, gayety, laſcivi-
eſs or diverſions, the amuſements of weaker minds.
re's an higher happineſs to the grave who are intent
rious buſineſs, from their own goodneſs, ſtrength
ind, and ſteddineſs.

here's juſt cauſe too of appealing from the judg-
of the voluptuous, who given up to ſenſuality,
n experience the joys of a virtuous ſort moſt be-
ng the rational nature, and never feel the plea-
of entire ſtable integrity and goodneſs. They are
pt judges, having the nobler ſenſes of the ſoul
ſtupified. But the external ſenſes are never ima-
to be any way impaired by the greateſt dignity
teddineſs of ſoul in all the moral virtues. The
man knows all the good in ſenſual pleaſures, and
ſes it that he may adhere to virtue; finding up-
ll knowledge of both, that in virtue conſiſts the
me good. Theſe honourable enjoyments are ne-
lended with ſenſual pleaſures, or recommended
as the means of obtaining them; on the contra-

ry,

ry, they are chiefly recommended by the labours, tr
bles and dangers incurred;

Midſt loſſes, deaths, deriving force
And ſpirit from the hoſtile ſword. H

Nay we have in this cauſe frequent teſtimonies fr
the voluptuous themſelves. How few are ſuch ab
doned wretches as not to be much more affected w
the beauty of ſome virtues, than with any bodily pl
ſures? Who won't ſometimes in ſerving a friend,
maintaining their own moral characters, or refu
certain calumnies, expoſe themſelves to toils and d
ger, and forego pleaſures? How few are devoted
mere ſolitary ſenſuality without any ſocial friendly
fections and joys? The few who are ſo, the w
looks upon as monſters, and deteſts them. And
how tranſient and fleeting are theſe pleaſures, a
they depend entirely upon the continuance of the
petite? when the natural craving is ſated, all plea
is gone; and there muſt be long, tedious and d
greeable intervals, unleſs they are filled up with
honourable purſuits.

A little reflection too will ſhew us, what is of h
importance in this matter, that in a temperate co
of life, filled up with the moſt virtuous purſuits,
the natural appetites recurr, there is generally that
joyment of the lower pleaſures which is both ſafeſt
moſt delightful; ſince moderation and abſtinence he
tens the enjoyment. With ſuch goodneſs is our na
conſtituted by God, ſo gentle is the reign of vir
that it reſtrains not its ſubjects from that enjoy
of bodily pleaſures, which upon a right eſtimate

und the ſweeteſt: altho' this ſhe demands, that ould ſtill preſerve ſo lively a ſenſe of the ſuperior ures, as may be ſufficient to controul the lower tites, when they make any oppoſition. But on ther hand under the empire of ſenſuality there's dmittance for the virtues; all the nobler joys from ſcious goodneſs, a ſenſe of virtue, and deſerving of others, muſt be baniſhed; and generally along them even the rational manly pleaſures of the ious arts.

LET us next conſider that pleaſure which ariſes the elegance and grandeur of life: this no doubt a far ſuperior kind to brutal ſenſuality, and yet ther very great nor durable. Such things can give alleviation to any of the important evils of life, as bodily diſeaſes, or thoſe of the mind, which ften more ſevere, our own anxieties, ſollicitudes, ws. While theſe matters of ornament, elegance ndeur are new to us, they are pretty agreeable; being a ſhort while enured to them puts an end eir pleaſure: we are ſoon cloyed; and if the taſte nues, we fall a hunting after ſomething new, with nge caprice and inconſtancy; expoſing ourſelves numerable chagrins and ſollicitudes, to obtain again we ſhall preſently be cloyed with and nau-

eed we inſiſt further that all theſe things require ſome friendly ſociety: their principal charm is me notions of liberality, kindneſs, good-will, and ng of pleaſures with others: by theſe chiefly they ade joyful to us and matter of glorying. And then

then ſuch things may be enjoyed by the very worſt
moſt wretched of mankind as well as by the moſt w
thy.

Let us ſubjoin to theſe the pleaſures of the ing
ous arts, and that moſt truly manly ſort which we
joy in knowledge and the ſciences: theſe the ſen
every one who has any tolerable genius or gentlem
taſte, muſt indeed prefer far above any bodily p
ſures; and they are alſo far more durable and ſta
Whenever therefor we have leiſure from the hon
able offices of life, what ſtudy or pains we emplo
bout them is truly laudable, and the remembran
it will be agreeable. This is the natural food o
rational nature, and a pleaſure ſuited to it; th
the proper exerciſe and improvement of that div
part: theſe pleaſures are of a purer kind, and m
honourable and joyful, and friendly too to the vi
tary virtues. And yet we may eaſily ſee that t
alone are not ſufficient to happineſs: they are not
ſolutely the higheſt; and are plainly in their own
ture deſtined for ſomething further, even for thoſe
nourable offices by which we may ſerve our fri
or our country. And hence it is that all men muſt
prove one who would throw aſide even the moſt
lightful ſtudies about the moſt important ſubje
when he were called to ſuccour his friends or his co
try, or to perform any kind or friendly office.

Let us imagine with our ſelves a perſon poſſe
of every ornament and elegance of life, along w
all the means of bodily pleaſures, and this by ſo
miraculous providence; and that he were emplo

e nobleſt contemplations with uninterrupted lei-
and yet void of all ſocial affection, neither loving
nor beloved, without any opportunities of friendly
es: or imagine him retaining the natural affecti-
oward others, but that all his kinſmen, all the ob-
of his love are calamitous and miſerable: Is there
man ſo diveſted of humanity as to wiſh for ſuch a
o himſelf, or think it deſirable? muſt not every one
upon it as miſerable and deteſtable? Imagine fur-
that the moroſe unkind affections alſo ariſe, en-
natred, ſuſpicion, fear; paſſions which generally
p the vacancy of the kind affections in our hearts,
when we live in the greateſt affluence: ſurely this
of life muſt be deemed moſt miſerable, void of all
pleaſure, and more to be dreaded than even a
ful death. And yet on the other hand, friendly
ty in life, mutual love and confidence, and virtu-
offices, can make a laborious toilſome life, even a-
t diſtreſſes, deſirable and glorious.

VI. LET us proceed to another ſource of happineſs
iſery, our ſympathy or ſocial feelings with others,
which we derive joys or ſorrows from their proſpe-
or adverſity. And this all muſt allow to be of great
ortance. For, in the name of all that's ſacred! who
ld not prefer beyond all compariſon the liberty,
ue, and felicity of his children, his kinſmen and
ds, his countrymen, not only to ſenſual pleaſures,
to the nobleſt pleaſures of a ſelfiſh ſort in the arts
ſciences? who would not rather forego them all
behold all ſuch as are dear to him in a condition
r miſerable or ſhameful? While there's any life or

vigour in the natural affections of the ſocial kind, ſo
any thing can more affect our happineſs or miſery t
the fortunes of others. What powerful relief under
own misfortunes ariſes from ſeeing the proſperity
ſuch as are dear to us! and how is all our enjoymen
life deſtroyed and beat to pieces by ſeeing their m
ry!

This ſocial ſympathy we naturally approve: to
touched deeply with the misfortunes of others is
nourable; nor can we wiſh to be diveſted of this ſe
even when it occaſions to us ſevere diſtreſſes and
rows: and the contrary temper, the hard inſen
heart, tho' free from ſuch cares and ſorrows, we na
rally deteſt, and deem it miſerable becauſe it is odi
and baſe.

The joys or ſorrows of this claſs may alſo be re
laſting, according as the proſperity or adverſity of
perſons we love continues. Nay we have deep ſorr
in reflecting upon the diſtreſſes or deaths of friend
a long time after theſe events: this duration of th
ſenſations adds exceedingly to their importance.

What happineſs we derive from this ſource is plai
ly independent of us, and is determined by Providen
No man can inſure it to himſelf any more than ext
nal pleaſures. Nor is it of conſequence to prevent ſy
pathetick pain, to think that men are generally
guilty cauſes of their own miſeries. Nay this very th
is chiefly deplorable and moſt pityable, that men
made miſerable by their own faults, placing their hop
of happineſs in ſuch mean periſhing objects. All w
deem themſelves miſerable are truly ſo, even altho
chan

ge in their own tempers would, in the ſame exter-
ircumſtances, make them happy.

here's plainly no other refuge from theſe evils, no
foundation for tranquillity or ſtable joy to a kind
t, but a conſtant regard to the Deity and his wiſ-
and goodneſs governing this world; with a ſtable
nation that all is ordered in the wiſeſt and beſt man-
for the univerſal felicity; and that all that varie-
evil we behold is yet no more or greater than what
quiſite for the proſperity and perfection of the uni-
e, and may at laſt alſo frequently tend to the real
of theſe very perſons whoſe misfortunes we be-

II. THE next ſource of happineſs or miſery natu-
connected with the former, is that *conſcience* or
of what is right and honourable, which is alſo of
t importance in life. This any one may perceive
can recollect any offices he has done for others
vigour, friendlineſs, an high ſenſe of duty, or for-
de; and obſerves with what joy the remembrance
fill his ſoul. What are our ſentiments of others?
what endearment, what ardent good-will do we
race ſuch as are engaged in ſuch offices? and how
py do we deem them even amidſt their toils and
gers; nay when they are voluntarily expoſing them-
es to certain death for their friends, their country,
or the propagation of true religion? The very reſ-
es of men at leiſure, when they are imagining to
mſelves, or thoſe they love, a whole plan of life of
greateſt dignity and happineſs they can conceive,
ciently ſhew that they can have no notion of an hap-

py courſe of life without a continued courſe of the virtue, diſplay'd amidſt toils and dangers. Theſe timents appear rooted in our hearts from our childh The whole frame of our nature ſhews that we are ſtined for action, and that in virtuous action alone can find the higheſt happineſs, in compariſon w which all ſenſual pleaſures appear deſpicable.

And then, with what joy, with what tranquillity confidence muſt a good man be filled, who endeav ing to reſemble the Deity as far as he can, is per ded that he has the Deity for his propitious kind ler, Father, and munificent Rewarder; who, being ſured that all events are governed and diſpoſed o his Providence, willingly embraces whatever befals firmly truſting that it is ordered with perfect wiſd and ſhall tend to his good: one who knows and lo the Supreme-excellence, and is frequently emplo in the contemplation and imitation of it.

Add to all this, that theſe joys are the moſt ſta and durable which ariſe from a conſciouſneſs of good diſpoſitions, and of having acted according them. The honourable toils and troubles are ſoon ver, and are ſucceeded by joyful and glorious refl ons. The taſte is not changeable or inconſtant; practice of virtue is never cloying; nay it rather wi anew our appetite for further good offices of the ſa or a nobler kind. To this are joined theſe furth pleaſures, when we congratulate with thoſe we ha ſerved effectually; when we juſtly expect the approb tion and praiſes of mankind; when we have the jo ful hopes of obtaining from God and men whatever requi

ite for our ſafety and felicity. Nor need any one
he want of opportunities for exerciſing his virtues
od offices, if he is heartily ſet upon them, accor-
to the condition of life allotted him. The indi-
r weak may not be capable of important ſervices
hers in external things. But ſuch a one, having
rdent wiſhes for the proſperity of mankind, and
ed to profit them at leaſt by his example of pie-
nd by ſuch mean offices as are in his power, may
an humble confidence and joy approve this good-
of his heart, theſe honourable affections to God
oſt equitable judge, and to the wiſeſt of man-
and expect their favour, approbation and protec-

II. WHAT naturally enſues upon this ſenſe, is
of *honour* and *infamy*, which is a very keen and
one. Praiſe and glory when they are founded
virtue, make no ſmall acceſſion to happineſs; but
ut this foundation they are of little conſequence.
muſt be an unfair and trifling mind which can be
ted with praiſes it knows not to be due to it.
glory like a lively tree ſpreads its roots deep;
iffuſes its branches: but falſe glory like the bloſ-
muſt ſoon fall. No man can be aſſured that
dleſs honours can remain with him even for a
Such is the power of truth, that it frequently
ils beyond all expectation, either in the unmaſk-
oſtentatious hypocrites or in vindicating the in-
character, and reſcuing virtue from calumnies.
ſince the true object of praiſe is virtue alone; that
al ſtrong paſſion for praiſe ſhould excite every
wiſe

wiſe man to regulate his whole life according to
rules of virtue, and employ himſelf continually in ſ
truly honourable offices.

IX. THAT we may not quite omit another ſo
of enjoyment tho' of a lower kind; that which co
in mirth and gaiety, amidſt ſports, diverſions and
ing; we ſhall only briefly ſuggeſt, that unleſs the
bler powers be much ſtupified, and we caſt aſide
manly thought and reflection, indulging a baſe ne
gence about the moſt important concerns, we ca
other way than by virtue and a careful regard to
duties of life, promiſe to ourſelves either tranqu
or chearfulneſs. For when the ſoul is galled and
cered either with remorſe, or with the ill-natured
vious paſſions oppoſite to virtue, or with fears and
ſpicions, there can be no undiſturbed enjoyment o
ſatisfaction. In this matter the common ſimilitude ho
"whatever is poured into a ſour caſk muſt ſoon g
"acid." 'Tis then alone we can be truly eaſy
cheerful, fit to reliſh all manly pleaſantries and m
when we are poſſeſſed of a courteous, humane,
temper, with a good conſcience, and maintain
friendly ſocial intercourſe with good men. Wha
therefore is valuable in gayety and mirth, ſhould
excite us to cultivate all kinds of virtue, and per
us to activity in diſcharge of all the duties of life.

X. As to wealth and power; whatever good
them, ſhould naturally lead a wiſe man into the
virtuous courſe: ſince it is by obtaining the favour
good-will of others, and maintaining credit in ſoc
that wealth and power are eaſieſt obtained and pr

nor can the greateſt wealth or power ſecure its ſſor againſt a general hatred or reſentment. But as th and power are not deſired for themſelves, but rther purpoſes; from what we have ſhewn to be obleſt pleaſures of life, and our higheſt advantage happineſs, it muſt appear, that they alone reap rue fruits, and have the ſafeſt and ſweeteſt and honourable enjoyment of wealth or power, who by them in liberality and beneficence.

t ſince one of the firſt and ſtrongeſt principles in imals is the deſire of ſelf-preſervation, we muſt a few thoughts on this head. 'Tis plain this de- ke moſt others may be too ſtrong: nor is mere li- ſo much the object of it, as an happy life: and rtain that in ſome circumſtances life ceaſes to be ble: as for inſtance, when we cannot preſerve it ut great baſeneſs, ignominy and remorſe; or muſt ue it under grievous bodily pain. The moſt friend- rt would wiſh for the death of his friend, when not otherways eſcape theſe evils. Death is a cer- vent to all, and no man knows how ſoon it may n. It muſt therefor often be wiſe conduct for e's own intereſt to expoſe his life to the greateſt rs when any ſacred duty requires it, that he may or the preſervation of life loſe all that makes th retaining. We ought therefor to fortify our againſt the terrors of death: for one who dreads l always impendent, and that may ſurprize us moment, can retain no tranquillity. And this h of mind is to be obtained by deep meditation our youth, that after death, if it deſtroys the mind

mind as well as the body, 'tis impoſſible there can any evil, or any uneaſy ſenſation. But if our ſouls riſh not in death, which we juſtly conclude both f the goodneſs of God and the divine powers of the it ſelf; then all good men may hope for a joyful and that this fading mortal life ſhall be ſucceeded a new life of a nobler kind, which alone deſerves name.

The whole former reaſonings unite in this concl on, that happineſs conſiſts in the virtues of the and in the continued exerciſe of them in good o to the completion of which however ſome mode advantages with reſpect to the body and fortune requiſite, at leaſt that we enjoy health, and fr competence of external things as may ſatisfy the ful cravings of nature. From the poſſeſſion of v alone life is to be counted happy: but to ma compleatly ſo there muſt be a moderate degree o ternal proſperity.

XI. THE ſame concluſion is further confirme comparing the ſeveral evils contrary to the ſeveral of good already compared. And here in the firſt p 'tis plain that the ſtrength and force of bodily p greater in proportion than that of bodily pleaſ and this wiſely ordered, that we may be the ſtrongly excited to our own preſervation: and yet are not to be looked upon as the greateſt of evils. are often led into this miſtake by comparing ſome ler kinds of moral turpitude, even when they a cuſed in ſome meaſure or alleviated by the gre of the temptation, with the higheſt bodily tor

ſome crimes are ſo deteſtable, and muſt occaſion ſelf-abhorrence, and torturing remorſe, and ſome ows and diſtreſſes occaſioned by the miſery of per- very dear to us are ſo deep, as to occaſion miſe- uperior to any bodily torments.

nd then as to duration, the pain of the body, as as its pleaſures, can ſeldom be very durable. Such as is laſting muſt generally be of a lighter ſort, or it of frequent intervals of eaſe. The ſeverer kinds generally ſoon end in death: and the remem- ce of paſt pain when we dread no returns of the has nothing uneaſy in it, nay is ſometimes ſweet, matter of glorying.

he more elegant pleaſures of the arts, from beau- harmony, and ingenious imitation, and all theſe gs which relate to the ornament or grandeur of have no proper pain oppoſite to them. Theſe ſublime ſenſes are the avenues of pleaſure and of pain. Where indeed men have indulged ſtrong es of ſuch gratifications, or affect glory and emi- e by them, it may be very uneaſy to be diſap- ted, and we may regret much the want of them. an abſolute want of them is not a natural neceſ- cauſe of any miſery. Nay we ſee that the greater of men are abundantly eaſy without them, and efor have no ſolicitude to procure them.

ut 'tis of the higheſt uſe to obſerve, that virtue of f has no natural tendency to expoſe us to any of e external loſſes or pains: nay it rather prevents emoves them. But if it ſhould be our fortune to r ſuch loſſes or pain, from which ſurely the viti-

ous are no more ſecured than the virtuous; or if ſo times on account of virtue we ſhould be expoſed ſuch evils, which is ſometimes the caſe, (tho' men much more frequently involved by their vices in ſ evils, and that in a more ſhameful baſe way) Vir can teach us to bear ſuch evils with reſolution, o conquer them; or will afford us a variety of ſtr conſolations under them. Juſt reflection will ſhew that ſuch events are the proper matter of exerciſe the moſt glorious virtues, the courſe in which th muſt run, and train themſelves, acquiring daily force: that it is by bearing them with patience our reſignation to God, our ſubmiſſion, and magn mity muſt be diſplay'd, ſtrengthened, and at laſt g riouſly rewarded.

The miſeries of the ſympathetick kind from the ſtreſſes of others are often more ſevere, nor can t be allayed by any ſenſual pleaſures or any external jects. Such diſtreſſes are alſo very laſting: ſince remembrance or reflection upon any grievous mi tune or infamy of any perſon dear to us muſt alw be matter of great uneaſineſs. There is ſcarce any ſolation under ſuch diſtreſs except what muſt be d ved from reſignation and truſt in the Deity; by wh alone it is that good men can ſupport their ſpirit all events.

But ſtill the moſt grievous of all evils is the m turpitude of a depraved heart conſcious of its baſeneſs. This makes a man odious to himſelf; makes his own temper, what's moſt eſſential and timate to him, appear baſe and ſhameful, nay igno

us and deteſtable. This evil too is of the moſt laſt-
nature; ſince the remembrance of our paſt crimes
mpieties muſt ever be grievous and ſhameful. Nor
we ſhake off this uneaſy tormenting feeling unleſs
an entire alteration of temper, and reparation of
injuries we have done; nor will this it ſelf do it
ſtually. It's common attendants too are ſolici-
es, fears, anxieties; and, as ſuch perſons have de-
ed ill of God and mankind, they muſt live in a
petual dread that they ſhall be repaid according to
r demerits.

Along with theſe inward cauſes of miſery, comes
infamy; which when juſtly deſerved gives ſevere
laſting torment, excludes all hopes of true friend-
or favour with others, and of obtaining their
ful aſſiſtances for our advantage.

From all this we ſee that it was with the juſteſt rea-
the old Academy and the Peripateticks placed hap-
ſs in "a conſtant activity according to the higheſt
rtue in a proſperous courſe of life." This the
olmen call the *ſupreme formal good*. The ſame
efor is the ſummary notion of happineſs and of vir-
; to wit, "that we ſhould love and reverence the
eity with all our ſoul, and have a ſtedfaſt good-
ill toward mankind, and carefully improve all our
owers of body and mind by which we can promote
e common intereſt of all;" which is the life ac-
ing to nature.

III. But we ought always to keep this in our
ghts, that we entirely depend on God; that all
goods either of mind or body, all our virtues, have

been derived from him, and muſt be preſerved or
creaſed by his gracious Providence: and ſince every g
temper muſt always extend its views abroad, ſtudi
ly purſuing the happineſs of others, which alſo en
ly depends on the will of God, and cannot be e
ed by human power: there can be no other ſtable f
dation of tranquillity and joy than a conſtant tru
the goodneſs, wiſdom and power of God, by w
we commit to him ourſelves, our friends, and the w
univerſe, perſuaded that he will order all things w
The ſchoolmen therefor juſtly call God the ſupr
object of happineſs, or the *ſupreme objective good*, f
the knowledge and love of whom, with the hope
being favoured by him, our ſupreme happineſs mu
riſe.

CHA

CHAP. III.

rning the CHIEF DIVISIONS *of* VIRTUE.

AVING ſhewn that our chief good conſiſts in virtuous activity, our next Inquiry muſt be, what e ſeveral virtues? and what actions flow from ? and toward what objects?

explaining our natural conſcience or ſenſe of what d and honourable, we ſhewed that the chief virf the ſoul are kind affections and beneficent purof action: and that of theſe the calm and ſtede more excellent than the paſſionate, and that oſt extenſive are the moſt excellent. Amongſt the xcellent too we placed an ardent love of moral ence, an earneſt deſire of increaſing it in ourſelves, high eſteem and love toward all who are poſſeſit, with the higheſt love toward the ſupreme exce. Whence appeared our duty of loving God he higheſt veneration, and the ſacred obligations under to cultivate ſuch affections.

the middle or lower claſſes of virtues we placed narrower affections which either nature or acance have excited: of theſe the more lovely are s ariſe in a virtuous heart upon obſerving in othe like virtuous diſpoſitions: and hence ſuch ſhips as virtue has begot and nouriſhed muſt apery lovely. There's alſo ſomething very engaga general courteſy, and ſweetneſs of deportment all we have any intercourſe with.

We

We reckon also among the virtues all these h
or dispositions, which tend to improve the nobler p
ers of the soul, or are naturally joined with or fa
vient to generous affections; and all such too as
to restrain the meaner sensual appetites, the ord
obstacles to virtue, and gives us a power to co
them: all these we immediately esteem for themse
For by the wise contrivance of our Creator, our m
ral taste is so formed, that we immediately approve
esteem all such affections or powers, the more in
portion as they are of greater importance to the p
ral good. And hence it is that we not only ap
and love the kind affections of a more contracted
which are so necessary in the several relations o
while they are not opposite to any more extensive
rest; but we also immediately approve a *sincere*,
nuous, *candid temper*; we praise *abstinence* or con
of wealth and pleasure, and *fortitude*: as all the
turally evidence a mind possessed of an high ta
moral excellence, confirmed by an indifference a
or contempt of sensuality, and external advanta
disadvantages. Nay we immediately relish such
or motion in the body as carries natural indicati
virtue; and all the contrary dispositions whet
mind or body appear disagreeable and offensive.

Need we mention again some natural sense, di
from the moral one, but not unlike it, by wh
relish and value some powers of the mind and b
dy quite different from any of the voluntary m
To all the powers God has given us there's co
some sort of sense or relish, recommending that

them we call natural, which is alſo the moſt ſub-
t to the general good. Hence we highly ap-
the purſuits of knowledge and the ingenious arts,
city of application, induſtry, and perſeverance.
ven in bodily exerciſes and recreations, we moſt
e theſe which either ſhew ſomething of ingenu-
ſtrength, or tend to encreaſe them.

HAVING given this general rude draught of the
'tis proper to conſider their ſeveral kinds, that
f them diſplaying its beauty to us, may more
s to purſue them. Virtue in the largeſt accep-
may denote any power or quality which is ſub-
t to the happineſs of any ſenſitive being. In its
acceptation it denotes any habit or diſpoſiti-
ich perfects the powers of the ſoul; and thus
are divided into the *intellectual*, which include
rovements of the mind by ingenious arts and
; and *moral*, which are chiefly counted virtues,
erfections of the *will* and *affections*; and theſe
chief object of Ethicks.

yet the intellectual virtues are not to be alto-
omitted in Morals; not only becauſe they af-
oble branch of happineſs, pleaſures exceeding-
ming our rational nature; to which whoſoever
d, and has got an high taſte for them, is en-
contemn the meaner enjoyments which lead
whence the ſciences have juſtly been deemed
tions of the ſoul *: but becauſe they give a
rect aid to the moral virtues. For from a deep-
ry into nature and the univerſe, the perfecti-
ons

goras and Plato called them καθάρματα ψυχῆς.

ons of the great Creator are displayed, our dutiful
neration toward him increased, the mind led into a
contempt for the low worldly pursuits of mankind
and that *humility*, or deep consciousness of our
weakness and manifold imperfections, is obtain
which is a chief ornament and perfection in a
character. Nay, without a great deal of know
in the lower and ordinary affairs of life, we must
deficient in that practical prudence which is also
necessary in our conduct. But these virtues or acc
plishments belong principally to other branches of
losophy, or arts. This we suggest only in general
in the pursuits of knowledge these two faults are
cautiously avoided, the one that of rash precipita
senting; and for this purpose we must both take
and make vigorous application, and bring along an
free from prejudices and prepossessions, or any p
nate attachments. The other fault is employing
much keeness upon subjects, perhaps difficult, b
small use or necessity in life.

As to the moral virtues seated in the will; th
visions given of them by different authors are very
ferent. The followers of Aristotle, having this
cipally in view, that 'tis by immoderate ungove
passions that we are led into vice, while yet all
passions have been wisely implanted in our natur
the Deity for necessary purposes, they define v
"a considerate habit of the soul preserving a m
"crity according to right reason;" as indeed
great part of the office of virtue to keep the
affections, which are frequently disorderly, from

extremes of *exceſs* and *defect*. In this view, to ex- the ſeveral virtues they go through the ſeveral al paſſions, and their ſeveral degrees, when they ither too languid or too vehement; and ſhew that niddle degrees are the ſafeſt, the moſt advantage- and the moſt graceful; and theſe they count vir-. Now the ſeveral habits by which this media- is preſerved, according to a celebrated diviſion g the Antients, they reduce to four claſſes, which alled the *Cardinal Virtues*; *Prudence*, *Juſtice*, *erance* and *Fortitude*: from which they derive all veral branches of virtue.

I. PRUDENCE they deſcribe "a cautious habit conſideration and forethought, diſcerning what y be advantageous or hurtful in life;" which muſt quired and preſerved by experience and frequent ation. This habit no doubt is neceſſary in all the es of life. But one would think prudence were to be ranked among the intellectual than the virtues: and yet no man can attain to the true prudence, whoſe heart is not improved by the virtues, with an high ſenſe of moral excellence; who has not deeply imbibed the more generous nents of goodneſs. Others may have a ſort of ſagacity in worldly affairs, which aſſumes to it e title of Prudence and Wiſdom, but yet is very e from it. The vices oppoſite to this virtue are *eſs*, *inconſiderateneſs*, a *fooliſh ſelf-confidence*, and

ortitude they define to be "that virtue which ngthens the ſoul againſt all toils or dangers we

" may be expoſed to in diſcharge of our duty."
this virtue which repreſſes all vain or exceſſive
and gives us a ſuperiority to all the external acci
of our mortal ſtate; grounded on a thorough
ledge of their nature, that no external advantage
to be compared in point of happineſs with the poſſ
of virtue, and gaining the approbation of our own
and of God, to whom our tempers muſt be per
known; and that nothing ought ſo much to be
ed as vice and the moral deformity of the ſoul:
conſequently, ſince death muſt ſoon befal us in
vents, that an early death with virtue and hon
highly preferable to the longeſt ignominious life.
ſuch principles as theſe muſt be founded that true
neſs and elevation of mind which is not to be
bed by external accidents.

This true grandeur of mind is diſcovered in
three things; in an high reliſh and love of mor
cellence; in that ſuperiority to and contempt of
nal accidents juſt now mentioned; and in a tran
ty free from paſſion. There is therefor no true
tude in not dreading moral turpitude or juſt in
the truly brave and wiſe avoid theſe things abo
as they will alſo decline any dangers to which
tuous offices call them. Now as our paſſionate
ons are of two kinds; one, that of paſſionate
the other that of averſions, fears or anger; and
tude regulates theſe latter, as Temperance do
former; among the branches of Fortitude, are
koned beſide Magnanimity, Conſtancy, Hardine
Patience, *Lenity* alſo of temper and *Clemency*;

n the publick intereſt requires it, *Rigour* and *Se-ty*, with ſuch juſt Reſentment as is requiſite to re-or reſtrain injuries.

The vices oppoſite to Fortitude on one hand, are *llanimity* and *Cowardice*, and their common at-ant *Cruelty*; on the other hand, furious *boldneſs* *Temerity*, which is often attended with *obſtinacy* *ambition*, or too keen deſires of eminence, incon-t with that equality of right which ſhould be main-d in every free ſtate.

emperance is that virtue which reſtrains and regu-the lower appetites toward ſenſual pleaſures; as y them that men are moſt frequently enſnared into anner of vices, and into a neglect of every thing urable. In this virtue moſt remarkably appears the and beauty of manners, which is quite deſtroy-y ſenſuality.

he ſeveral branches of Temperance are *Modera-f mind*, *Modeſty*, *Chaſtity*, *Frugality*, a *Content-* with, or Reliſh for plain ſimple fare, and a *Se-* of manners in oppoſition to all obſcenity and neſs. The oppoſite vices are *Luxury*, *Gluttony*, *kenneſs*, *Impudence*, *Wantoneſs*, *Obſcenity*, effemi-*Softneſs*, and *Delicacy* as to food and other cares the body.

Juſtice they make the ſovereign virtue to which reſt ſhould be ſubſervient: this they define "an it conſtantly regarding the common intereſt, and ſubſerviency to it, giving or performing to each whatever is due to him upon any natural claim. it they include all the kind diſpoſitions of heart

by which a friendly intercourſe is maintained amo
men, or which leads us to contribute any thing to
common intereſt. Such as *Liberality*, *Benefice*
Friendlineſs, *Gratitude*, *Magnificence*, *Courteſy*, *Hu*
nity, *Veracity*, *Fidelity*, *Hoſpitality*, *Love of our C*
try, *Dutiful affection* in the ſacred relations of life,
principally *Piety* toward God, who is conceived as
Ruler and Father of that moſt venerable and ſacred
litical Body, the Rational Creation, of which our
veral countries are but ſmall parts. The nature of
three former cardinal virtues may be known from
was ſaid above about the ſupreme Good, and the
pariſons made of the ſeveral objects of our natural
ſires: and the nature of Juſtice will be more fully
plained in the ſecond Book, * where we treat of
ſeveral rights of mankind.

Theſe four virtues they maintain to be natu
connected and inſeparable not only in their higher
gree, which they call the *Heroic*; but in the m
degree, called that of *Temperance*, when the lower
petites are eaſily governed: altho' they may be
rated in the firſt weaker diſpoſition called the de
of *Continence*. And yet from each of them ſome
culiar duties are derived which they dilate upon
agreeably. But ſo far for this ſubject.

IV. THERE ariſes here a queſtion of ſome little
ficulty about the original of virtue, whether it
from the very conſtitution of our nature, or from
ſtruction and habit, or by ſome divine influence
power. On which ſubject we briefly ſuggeſt, that

* See Book ii. Chap. 2, and 4.

lows from any natural principles is as much ow-
o God, and we are as much indebted to him for
if it had in an extraordinary manner been effected
s power. Nor ought our gratitude to be leſs for
enefit, on this account that the liberal Donor has
ed the like goodneſs amongſt many, or that theſe
ts have been beſtowed upon us in a certain re-
method, according to ſome fixed laws, in conſe-
e of a ſtable ſeries of cauſes determined at firſt by
oodneſs and wiſdom of the Author of nature; or
ſe he has uſed other voluntary agents as his mi-
and inſtruments, whom he has inclined or ex-
o do us ſuch good offices. Any virtues therefor
we find in ourſelves ſhould be the chief matter
nkſgiving and praiſes to God. And yet there's
g incredible in this that the univerſal Governor
world ſhould alſo by his power inſpire and excite
o whatever is glorious and honourable: nay 'tis
improbable that he who had diſplayed ſuch
eſs in beſtowing external advantages on us, ſhould
o exert the ſame goodneſs and power in beſtow-
more noble benefits *. The concurrence of
hree cauſes to be ſure muſt undoubtedly make
rtuous. We ſometimes ſee an happy natural
tion, with ſomething like a divine impulſe, pro-
reat matters without much aid from inſtruction
ipline: but without ſome tolerable natural diſ-
poſition

* This cannot appear ſtrange to thoſe who aſcribe to the
t operation of God thoſe forces in the material world
ch its frame is preſerved. See *Antoninus* B. i. c. 17.
ix. c. 48.

poſition, at leaſt without a natural taſte or capa
for virtue (which however ſcarce any one wants a
gether) inſtruction or cuſtom would be of little o
effect. Of theſe two a good natural diſpoſition ſ
of greater conſequence, as nature is a more ſtable p
ciple. And yet inſtruction and habit wonderfully
prove the natural diſpoſition; and 'tis but ſeldom
without their aids we can expect to ſee any thing g
and eminent.

We ſhall not dwell further upon that mediocri
ſiſted on ſo much by *Ariſtotle:* for tho' it well
ſerves our conſideration, yet 'tis plain that the p
ry notion of virtue does not conſiſt in it. And h
ver it may hold not only as to our lower appe
and ſome of the more ſublime ones by which we
purſuing more manly enjoyments of a ſelfiſh kind,
even in the more narrow affections of good-will,
a midle degree, equally removed from both the
tremes of exceſs and defect, is the moſt laudable;
there can be no exceſs in theſe affections in which
tue chiefly conſiſts, to wit in the love of God, a
that extenſive good-will toward all, or in the lo
moral excellence, provided we have juſt notions

V. THERE's another diviſion more obvious and
haps more natural, according to the ſeveral objec
ward whom our virtues are to be exerciſed, inna
ty toward God, and *Good-will* toward Men: to w
a third branch may be added of ſuch virtues as im
diately relate to *ourſelves*, by which a man im
diately aims at his own perfection. And altho' t
be nothing morally lovely in mere ſelf-love, a

ſome reference to our duty to God, or to that men, which muſt make a man's duties toward appear venerable or amiable; yet this third muſt not be omitted, ſince it is by means of a ſelf-culture that we muſt be prepared for any able ſervices to God or mankind; and with ference they are exceedingly amiable.

urſuit of this laſt diviſion, we firſt explain the of Piety, both to ſhew their true nature, and mportance toward our happineſs; next we con- ur duties toward our fellows; and laſtly that ture which is ſubſervient to Piety and Huma-

CHAP. IV.

CHAP. IV.

Our Duties toward God.

Piety conſiſts in theſe two eſſential parts, [illegible] juſt opinions and ſentiments concerning [illegible] and then in affections and worſhip ſuited to them.

The juſt opinions concerning God are taught in [illegible] tural Theology or Metaphyſicks: to wit, that [illegible] Deity is the original independent Being, compleat [illegible] all poſſible perfection, of boundleſs power, wiſdom [illegible] goodneſs, the Creator, Contriver and governor of [illegible] world, and the inexhauſtible ſource of all Good. [illegible] take theſe principles as granted in treating of Man, [illegible] and inquire what affections of ſoul, what worſhip [illegible] ternal or external is ſuited to them.

The inward ſenſe of the heart muſt ſhew at once [illegible] that this preeminence and infinite grandeur of the [illegible] riginal cauſe of all, ought to be entertained with [illegible] higheſt admiration and praiſe and ſubmiſſive reve- [illegible] tion of ſoul: and ſince there's no deſire more [illegible] ing the rational nature than that of knowledge, [illegible] of diſcovering the natures and cauſes of the great [illegible] ſubjects, no occupation of the mind can be more [illegible] nourable, or even delightful, than ſtudying to [illegible] the divine perfections: nor indeed without a [illegible] to the knowledge of the ſupreme Excellency, can [illegible] honourable intellectual powers we are endued [illegible] find a proper object fully to exerciſe and ſatisfy [illegible]

As to the moral Attributes of God: that ori-
and moſt gracious Power which by its boundleſs
, Goodneſs, and Wiſdom has formed this Uni-
granting to each being its proper nature, pow-
nſes, appetites, or reaſon, and even moral excel-
s; and with a liberal hand ſupplying each one
ll things conducive to ſuch pleaſure and happi-
s their natures can receive; this Power, I ſay,
be acknowledged with the moſt grateful affec-
with generous love, and the higheſt praiſes and
ſgiving; and with a joyful hope and confidence,
d from all vanity, pride, or arrogance, ſince we
h dependent creatures, who owe to it all we

e more fully conſider the divine Goodneſs and
Perfection; that the Deity muſt delight in all
and goodneſs; that he muſt approve and love
d men: this will ſuggeſt to all ſuch ſtill more
hopes, with an higher and more delightful con-
and truſt, and more ardent love of virtue
the Deity. Hence will ariſe a ſtable ſecurity
nquillity of the ſoul, which can commit it ſelf
its concerns to the divine Providence. Hence
conſtant endeavour to imitate the Deity, and
e in ourſelves all ſuch affections as make us re-
him; with a ſteddy purpoſe of exerting all our
in acting well that part which God and na-
s aſſigned us, whether in proſperity or adver-

contemplations of the venerable and adorable
cy and gratuitous Goodneſs of God, whom

every good man regards as the witneſs and appro
of his actions, will lead us to an ultimate reſting in
tue: that higheſt purity of it, by which we look
on conformity to the divine Will, the diſcharging
duty aſſigned us by him, and performing our part
as the chief good, the chief fruit of virtue. Nor
out this knowledge of the Deity, and theſe affec
can a good benevolent heart find any ſure groun
hope and ſecurity, either as to it ſelf or the de
objects of its affection, or as to the whole ſtate o
univerſe. Nor can the virtuous mind, which e
its affectionate concerns to all mankind, or the lo
moral excellence it ſelf, ever be ſatisfied and at re
leſs it be aſſured that there's ſome excellent Being
plete in every perfection, in the knowledge and l
which, with a proſpect of being beloved by it,
fully acquieſce, and commit it ſelf and the dear
jects of its cares, and the whole of mankind to h
cious providence with full ſecurity.

And altho' there's none of human race who
involved in manifold weakneſſes and diſorders o
none who upon reflection won't find themſelv
tangled in many errors and miſapprehenſions
matters of the greateſt importance to the true h
neſs of life; and in the guilt of manifold crimes
mitted againſt God and our fellow-creatures; o
count of which they may juſtly dread the divine
and apprehend ſome impendent puniſhments: y
is the divine goodneſs and clemency; with ſuch
ſuffering and mercy has he continued for many
exerciſe his gracious providence about weak c

mortals, that ſuch as ſincerely love him, and de-
as far as human weakneſs can go, to ſerve him
duty and gratitude, need not entirely loſe hopes
s favour. Nay they have ſome probable ground
pect, that God will be found propitious and pla-
to ſuch as repent of their ſins and are exerting
utmoſt endeavours in the purſuits of virtue; and
his infinite wiſdom and goodneſs will find out ſome
od of exerciſing his mercy toward a guilty world,
not to impair the authority of his laws and the
ty of his moral adminiſtration, tho' human wiſ-
ſhould never particularly diſcover it. And further,
is ſufficient for our purpoſe in the preſent queſti-
n admit of no debate; that the perfection of vir-
muſt conſtitute our ſupreme felicity; and that the
t deſires, and ſincere efforts to attain it, cannot
a moſt important effect, either in obtaining com-
felicity, or at leaſt ſome lower degree of it, or a
alleviation of miſery.

e ſublimer powers of the ſoul of their own na-
ead us to the Deity: as they are derived from
hey powerfully draw us back to him again. Our
powers of reaſon, our benevolent affections of the
extenſive kinds, and our natural ſenſe and love
ral excellence, have all this natural tendency.
eſe bonds all rational beings are as it were con-
with and affixed to the Deity, if they have a-
e to cultivate theſe higher powers. Nor is the
of this divine love the mere proſpect of our
elicity to be found in him: for from our natural

ſenſe and approbation of moral excellence, wherever it is diſcovered, there muſt ariſe a diſintereſted love and veneration, detached from all conſiderations of our own intereſts.

And further ſince all the more lively affections of the ſoul naturally diſplay themſelves in ſome natural expreſſions, and by this exerciſe are further ſtrengthened, the good man muſt naturally incline to employ himſelf frequently and at ſtated times in ſome acts of devotion, contemplating and adoring the divine excellencys; giving thanks for his goodneſs; humbly imploring the pardon of his tranſgreſſions; expreſſing his ſubmiſſion, reſignation, and truſt in God's Providence, and imploring his aid in the acquiſition of virtue, and in reforming his temper, that he may be furniſhed for every good work. For the frequent meditation of the ſupreme and perfect model of all goodneſs muſt powerfully kindle an ardent deſire of the ſame in every ingenuous heart.

But here we muſt avoid any imaginations that piety or worſhip can be of any advantage to the Deity, or that he requires it of us, for any intereſt of his own. 'Tis rather our own intereſt that is promoted by it, and 'tis for our ſakes that God enjoins it; that we may obtain the trueſt felicity, and excellence, and the pureſt joys. By entertaining theſe ſentiments concerning the worſhip of God, we ſhall be ſecured from both the extremes, of *impiety* on one hand, which conſiſts in a neglect and contempt of all religious worſhip; and *ſuperſtition* on the other, which is an abject dread

el or capricious Dæmon men form to themſelves, h they conceive appaiſable by ſavage or fantaſ- rites.

I. HITHERTO we have treated of internal wor- But our nature ſcarcely reliſhes any thing in ſo- ; all our affections naturally diſcover themſelves e others, and infect them as with a contagion. ſhews that God is not only to be worſhipped in , but in publick; which alſo tends to increaſe wn devotion, and to raiſe like ſentiments in o- and makes them thus partakers of this ſublime ment. This ſocial worſhip is not only the natu- ſult of inward piety, but is alſo recommended by any advantages redounding from it; as it has a influence in promoting a general piety: and from eral ſenſe of religion prevailing in a ſociety all its bers are powerfully excited to a faithful diſcharge ry duty of life, and reſtrained from all injury or dneſs. And hence it is that mankind have always perſuaded, that religion was of the higheſt con- nce to engage men to all ſocial duties, and to ve ſociety in peace and ſafety.

e external worſhip muſt be the natural expreſſi- f the internal devotion of the ſoul; and muſt or conſiſt in celebrating the praiſes of God, and ing his perfections to others; in thankſgivings, expreſſions of our truſt in him; in acknowledg- s power, his univerſal Providence and goodneſs, yers for what we need; in confeſſing our ſins, ploring his mercy; and finally in committing our-

ourſelves entirely to his conduct, government, and
rection, with an abſolute reſignation.

Where ſuch devout ſentiments are cheriſhed,
affections ſuitable to them, there muſt be kindled
ardent deſire of inquiring into all indications of
Divine will. And whatever diſcoveries we find
of it, whether in the very order of nature, or by
ſupernatural means, which ſome of the wiſeſt of
Heathens ſeem to have expected, the good man
embrace them with joy.

CHA

CHAP. V.

OUR DUTIES TOWARD MANKIND.

THE duties to be performed toward others are in like manner pointed out to us by our na- ſenſe of right and wrong; and we have many na- affections exciting us to them. There are many of kind affections in the ſeveral relations of life, are plainly implanted by nature. Thus nature nplanted in the two ſexes a ſtrong mutual affecti- which has a wonderful power, and has in view much the low gratification common to us with , as a friendly ſociety for life, founded upon ndearment which ariſes from a mutual good opi- of each others moral characters, of which even y of form gives ſome evidence. There's alſo im- d a ſtrong deſire of offſpring, and a very tender ar affection toward them. In conſequence of there are alſo natural affections among brothers, couſins, and remoter kindred, and even ſuch as lied by marriages.

there are ſtill more ſubtile ſocial bonds. Good who know each other have a natural affection not that among kinſmen. 2. Men are ſtill further by an intercourſe of mutual offices. 3. But be- nt affections ſtill ſpread further, among acquain- and neighbours, where there's any meaſure even commoneſt virtues. 4. Nay they diffuſe them- even to all our Countrymen, members of the

ſame

ſame polity, when multitudes are once united in a po-
litical body for their common intereſt. 5. And in
of reflection there's a more extenſive good-will emb-
cing all mankind, or all intelligent natures. 6. Al-
with theſe, there's a tender compaſſion toward any
are in diſtreſs, with a deſire of ſuccouring them;
a natural congratulation with the proſperous,
there has interveened ſome cauſe of averſion or en-
ty.

Theſe kind affections are immediately approved
themſelves: every one feels a complacence in them,
applauds himſelf in indulging them as ſome way
ed to his nature: but the contrary affections which
occaſionally incident to men, ſuch as anger, hatred,
vy, revenge, and malice, are of themſelves uneas
nor can any one applaud himſelf in remembring the
or approve like paſſions in others: they are often
ter of ſhame and remorſe; and even when they
juſtifiable and neceſſary, yet they contain nothing
ful, nothing glorious.

II. WE have abundantly ſhewn how much
kind affections with the ſuitable virtuous offices con-
bute to our happineſs. All men who have not
diveſted themſelves of humanity, and taken up
temper of ſavage beaſts, muſt feel that without mu
love, good-will and kind offices, we can enjoy no
pineſs: and that ſolitude, even in the greateſt affluen
of external things, muſt be miſerable. We alſo
ed that the calm, ſteddy affections were more hon
able than the turbulent. But we muſt ſtill remem
that mere kind affection without action, or ſlothful wi

never make us happy. Our chief joy conſiſts in exerciſe of our more honourable powers; and when affections are tolerably lively they muſt be the g of vigorous efforts to do good.

his therefore is the ſum of all ſocial virtues, that an extenſive affection toward all, we exert our rs vigorouſly for the common intereſt, and at the time cheriſh all the tender affections in the ſeve- arrower relations, which contribute toward the erity of individuals, as far as the common inte- will allow it.

II. BUT as there are very few who have either a- s or opportunities of doing any thing which can ly and immediately affect the intereſts of all; and very one almoſt can contribute ſomething toward dvantage of his kinſmen, his friends or his neigh-, and by ſo doing plainly promotes the general 'tis plainly our duty to employ our ſelves in leſs extenſive offices, while they obſtruct no in- more extenſive, and we have no opportunities of important ſervices. In doing ſo we follow nature God its author, who by theſe ſtronger bonds has ſome of mankind much dearer to us than others, ecommended them more peculiarly to our care.

e muſt not therefor, from any airy views of more extenſive offices, check or weaken the tender l affections, which are great ſources of pleaſure , and of the greateſt neceſſity. Nay 'tis our du- her to cheriſh and encreaſe them, in proportion ir importance to the common intereſt. But at me time we ſhould chiefly fortify the moſt exten-

ſive affections, the love of moral excellence, and ſteddy purpoſe of conformity to the divine will. W theſe nobler affections have the controll of all the the ſtrengthning the tender affections in the ſ narrower attachments of life will rather tend to c pleat the beauty of a moral character, and the ha ny of life. The intereſt too of each individual ſ lead him to this cultivation of all kind affect ſince, as we ſhall preſently ſhew, ſo are we formed nature that no man in ſolitude, without the aids o thers and an intercourſe of mutual offices, can pre himſelf in ſafety or even in life, not to ſpeak of pleaſure or happineſs. Now 'tis plain, that 'tis by kind offices and beneficence that we can pro the good-will of others, or engage their zeal to mote our intereſts: whereas by contrary diſpoſi by a ſordid ſelfiſhneſs, and much more by violence injuries, we incur the hatred of others; wrath and cord muſt ariſe, and we muſt live in perpetual of the evils which the reſentments of others may ſion to us. Nay further from ſuch conduct there turally ariſe in our own minds all the ſullen, paſſions of ſuſpicion, jealouſy, and too well grou fears: ſince not only the perſons immediately inj but all others who have any regard to the common tereſt, are rouſed by a juſt indignation to repell revenge any injuries attempted againſt their n bours.

Nor ſhould we omit ſome other wonderful co vances in nature to preſerve a ſocial life among and avert injuries. What a manifeſt acceſſion of

made to the countenance from friendly mirth, cheerfulneſs, and an affectionate ſympathy and con-ulation with others? How much grace ariſes from olute conſcious virtue, and the inward applauſes good heart? What charms in the countenance, gentle flames ſparkle in the eyes of a friend, or of who is full of gratitude for any kindneſs received. he other hand, when an injury is received or ap-ended, and there's hope of avenging and repelling what ſtorms of countenance does reſentment diſ-it ſelf, and what wrathful flames flaſh from the ? But when there's no hopes of repelling the inju-intended, with what powerful eloquence has na-inſtructed even the dumb animals, as well as man-, under any oppreſſive ſorrow or pain, or any great r? How moving is that mournful wailing voice, dejected countenance, weeping and downcaſt eyes, , tears, groans? How powerfully do they move paſſion in all, that they may either give ſuccour ſtreſs, or deſiſt from the intended injuries?

V. In this place we muſt not paſs by the virtue *riendſhip*, which is ſo lovely and ſo uſeful in life. lledge that this ardent affection of ſuch admirable , ariſes merely from a ſenſe of our own weak-and indigence, that ſo what one cannot obtain s own power, he may by the aids of others; is ing to it a mean and deſpicable original, and a unſtable foundation: ſince at this rate any change tereſt, ſo that we apprehended trouble or incon-ence by our friendlyneſs, muſt at once deſtroy all tion or good-will: nay indeed there could be no

real love, but a mere hypocritical profeſſion of it, fro
ſuch views of intereſt.

The true ſpring of friendſhip therefor muſt be
natural approbation and love of moral excellence
ready mentioned. For whenſoever virtue appears
the manners of thoſe with whom we are acquain
there muſt ariſe immediately, without views of in
reſt, an high eſteem and love toward them. For
Good, as a ſort of kindred ſouls naturally love and
ſire the ſociety of each other. This love when
ſtrengthened by ſeeing each others friendly zeal,
by an intercourſe of mutual ſervices, becomes at
as ſtrong as any tyes of blood; ſo that we have
ſame ultimate concern about our friends that we
about our ſelves.

But as vitious men are naturally inconſtant and
riable, with ſuch oppoſite paſſions as hinder th
from either pleaſing themſelves long, or being agr
able to others; ſtable friendſhip is only to be found
mong the Good: ſince it muſt both be produced
preſerved by virtue. And hence flows the grand
of friendſhip, that we neither ought to deſire
friends concurrence in any thing vitious, nor conc
in it at his requeſt; leaſt we undermine its only ſo
dation. Friendſhip therefor is "the affectionate un
"of minds reſembling each other in virtuous m
"ners." Which whoſoever enjoys, will find it
moſt agreeable companion in the road to virtue
happineſs. What can be ſweeter, what more uſeful
to have a wiſe worthy friend with whom we may
verſe as freely as with our own ſoul: what enjoy
co

we have of prosperity without the society of one as much rejoices in it as we do ourselves? and for fity, 'tis hard to bear it without the Society of as perhaps suffer more by sympathy than we do. th fortunes we need exceedingly the wise counsel ends: friendship which ever way we turn us will present aid; no station excludes it; 'tis never unable or troublesome. 'Tis the chief ornament of erity, and exceedingly alleviates our adversities aring a share in them.

WE may further observe in relation to the kind ions, that tho' the most extensive good-will to- all can never be too great, nor can our love of and virtue admit of any excess; yet all the more acted affections, arising either from the tyes of , or acquaintance, however lovely of themselves, ometimes be excessive, and beyond that proporhich a good man would approve. Love is ofvided into that of *benevolence* or good-will, and *complacence* or esteem, by which we are pleash the tempers of others and desire their society. former branch there's less danger of exceeding t bounds, provided we retain a just submission d trust in the divine Providence, and preserve re extensive affections in their proper superioo as not to sacrifice the interest of our country, the larger societies, or of persons of superiour to that of our friends, or favourites. But the complacence which comes nearer to friendship, on more slippery ground. We ought to be very s that this affection be not employed about unworthy

worthy objects; or allure us to any thing vitious; so engroſs the whole man, that if theſe beloved ſons be removed from us, or be involved in any calamities, our ſouls ſhould ſink entirely, and become unfit for all offices of piety and humanity. The beſt preventive of theſe evils, is not a reſtraining and checking all the tender affections of a narrower kind; but rather the cultivating the higheſt love and veneration toward the Deity, placing our hope and confidence in his Providence; and enlarging our views and concerns with more equitable minds toward the reſt of mankind, that we may alſo diſcern what real excellencies are among them, perhaps equalling or ſurpaſſing thoſe we had with ſuch fond admiration beheld as peculiar favourites.

CHA

CHAP. VI.

rning our DUTIES *toward* OURSELVES, *nd the* IMPROVEMENT *of the* MIND.

S powerful motives of private intereſt naturally excite us to our ſeveral Duties toward ourſelves; e them ſomething venerable and laudable they e ultimately referred either to the ſervice of God, e advantages to be procured to others. With ference they become highly virtuous and honour-

e culture of our minds principally conſiſts in for- uſt opinions about our duty; and in procuring a tore of valuable knowledge about the moſt im- t ſubjects: as indeed all branches of knowledge me uſe, and contribute in ſome meaſure to hap- either by the immediate pleaſure, or by diſcover- re fully to us the divine perfections, or enabling er to know and diſcharge our Duty; ſince the ns of the will naturally follow the judgments for- the underſtanding. All therefor who have a- and proper opportunities, ought to apply them- o improve their minds with an extenſive know- f nature in the ſciences; and 'tis the duty of all ire by diligent meditation and obſervation that n prudence which ſhould conſtantly govern our We ought therefor to make juſt eſtimates of all which naturally raiſe our deſires, conſider tho-

roughly

roughly their importance to happineſs, and find o
wherein conſiſts our ſupreme good; the diſcovery
which muſt alſo diſcover the true plan of life. We ſhou
therefor deeply impreſs this on our minds, that o
chief good is placed in devout affections toward God
and good-will and beneficence toward mankind.

The divine nature therefor and its boundleſs exc
lencies ſhould be matter of our moſt careful inquiry
eſpecially thoſe attributes which excite our pious ven
ration, love, and truſt in him. And we are to extirpa
all imaginations or ſuſpicions, of any purpoſes in Go
which are inconſiſtent with the perfection of wiſdo
goodneſs, and love to his creatures.

We ought alſo carefully to ſtudy our own nature
conſtitution; what ſort of beings God requires
ſhould be; what character * either more general,
more peculiar to each one, God requires he ſho
ſupport and act up to in life: that thus we may
low God and nature as the ſure guide to happine

We ought therefor to enter deeply into human
ture; obſerving both in ourſelves and others the
principles of action, the true tempers and deſigns:
we raſhly form worſe notions of our fellows than
reaſon would ſuggeſt. By a thorough view of th
things, we ſhould often prevent or ſuppreſs many of
harſher and ill-natured paſſions, anger, hatred, and

* See a full explication of theſe characters, the *gener*
cluding all integrity and probity of manners, and the *p*
cular, ſuited to each one's genius, explained in *Cicero de*
B. i. 30, 31, 32, *&c.*

; and cheriſh humanity, compaſſion, lenity, forgive-
ſs and clemency.

II. THIS ſhould alſo continually be in our thoughts,
t all things fall out according to the divine counſel,
her directly ordering them, or at leaſt, permitting
m with the moſt perfect purity, for ſome excel-
t purpoſes: and that conſequently what appears to
harſh, injurious, or ignominious, may be deſigned
afford occaſion for exerciſing and ſtrengthening the
ſt divine virtues of the Good; and in them conſiſts
ir chief felicity.

The ſoul ſhould be inured to a generous contempt
other things; and this we may acquire by looking
roughly into them: by obſerving how mean, ſor-
, fading, and tranſitory are all bodily pleaſures, all
objects that afford them, and our very bodies them-
ves! by obſerving how ſmall theſe joys are and how
le neceſſary, which ariſe from the external elegance
grandeur of life; and how uncertain they are; what
es they coſt in acquiring and preſerving; and how
n they cloy and give diſguſt! as to ſpeculative know-
ge; how uncertain and imperfect are many ſciences,
ding the embaraſſed mind into new obſcurities and
ficulties and anxious darkneſs; and diſcovering no-
g more clearly than the blindneſs and darkneſs, or
ſmall penetration of our underſtanding. Again how
or an affair is glory and applauſe! which is ordina-
conferred by the ignorant, who cannot judge of
excellence; our enjoyment of which is confined
hin the ſhort ſpace of this life; which can be diffuſed
ough but a ſmall part of this earth; and which muſt

ſoon be ſwallowed up in eternal oblivion along with
the remembrance either of theſe who applaud or
the perſons applauded. This thought too of the ſhor
neſs of life, will equally enable the ſoul to bear or d
ſpiſe adverſity; taking this alſo along, that the ſo
who bears it well, will obtain new and enlarged ſtrengt
and like a lively fire, which turns every thing caſt u
on it into its own nature, and breaks forth ſuperio
with ſtronger heat, ſo may the good man make adver
events matter of new honour and of nobler virtu
To ſum up all briefly, all things related to this mo
tal ſtate are fleeting, unſtable, corruptible; which m
ſpeedily periſh, and be preſently ſwallowed up in th
boundleſs ocean of eternity. For what can be call
laſting in human life? Days, months, and years a
continually paſſing away; all muſt die, nor is any fo
that death ſhall not ſurpriſe him this very day: a
when that laſt hour overtakes him, all that's paſ
loſt for ever; nor can there remain to him any enjo
ment, except of what he has acted virtuouſly; whi
may yield ſome joyful hope of an happy immortali
This hope alone can be the foundation of true for
tude; this proſpect alone can fully ſatisfy the mind
to the juſtice and benignity of the divine adminiſtrati

But as in other arts, the mere knowledge of t
precepts is of little conſequence, nor can any th
laudable be obtained without practice and exerciſe;
in moral philoſophy, which is the art of living w
the importance of the matter requires habit and co
nual exerciſe. Let our Reaſon therefor, and the ot
divine parts in our conſtitution, aſſume to themſel

ir juſt right of commanding the inferiour faculties, enure them to a conſtant ſubjection. And this in preſent degenerate ſtate muſt require almoſt con- al attention and internal diſcipline; to the ſucceſs which it will contribute much that we be frequent- employed in the offices of Piety and Devotion to- d God, in adoration of his perfections, prayers, ſeſſion of ſin, and pious deſires, and vows of obedi- .

II. To apprehend more fully the nature of virtue vice, and to adorn the ſoul with every moral ex- ncy, it may be of uſe to run over the ſeveral ſpe- of virtue, with their characteriſticks, and eſtabliſh- ames; and obſerve the ſeveral oppoſite vices, whe- in the exceſs or defect of ſome natural deſire. The ication of the ſeveral Paſſions belongs to another ch of Philoſophy. To count them all over, and their ſeveral degrees whether laudable or cenſur- with their ſeveral ſigns or characters, would re- a very long diſcourſe, with great variety of mat- but what's of moſt importance to lead us to vir- is the forming juſt eſtimates of all human affairs, he objects of the natural deſires; and by frequent tation deeply infixing in our hearts juſt impreſſions eir values, and habituating the ſuperior parts of oul to a conſtant command over the inferior.

his however muſt be remembered concerning our ral deſires and paſſions, that none of them can be ounced abſolutely evil in kind: none of them which not ſometimes be of great uſe in life, either to the n in whom they reſide, or to others of mankind:

in promoting either their Advantage, pleaſure, or e
ven their virtue. Superior orders of intelligence wh
have the ſuperior powers more vigorous, may perhap
ſtand in no need of ſuch violent motions or inſtiga
ons; but to mankind they ſeem often neceſſary. An
there is a moderate degree of each of them which i
often advantageous, and often laudable. Such affec
tions as don't come up to this moderate degree are no
ſufficient for the purpoſes either of the individual, o
thoſe of ſociety; and ſuch as are too luxuriant an
vehement, whether in purſuit of good or repelling
evil, and paſs over the proper bounds, become une
ſy and diſhonourable to the perſon in whom they ar
and are hurtful or pernicious to Society. The mod
rate degrees of ſeveral paſſions we juſtly deem not o
ly innocent, but exceedingly ſubſervient to virtue,
its guards or miniſters; nay as the ſprings of ma
honourable actions, and as real virtues. By means
theſe better paſſions whether in purſuit of good or wa
ding off of evil, we enjoy a more lively ſenſe of li
the force of the ſoul is enlarged, and its activity in
gorated: whence *Plato* calls theſe paſſions the wi
or *chariot-horſes* of the ſoul.

Nature has given us the cleareſt indications of wh
ſhe requires in this matter. For while theſe paſſio
are kept moderate under juſt government, and dire
ted by reaſon, the whole deportment is graceful an
lovely. But when we are hurried away by any furio
unbridled paſſion, we are utterly incapable of exercis
our reaſon, or finding out what is wiſe and becom
us; we quite miſs the very aim of the paſſion it ſe
a

our whole deportment is disagreeable and defor-
d. Observe the very countenances of persons enra-
, or of such as are transported with any ardent en-
ned desire, or distracted with terror, or fluttering
h joy. Their whole air, the whole state and moti-
of the body becomes deformed and unnatural.

We therefor give the honourable titles of *virtues*
hese moderate passions, equally confined from the
extremes; and call the extremes *vices*. But we
e not appropriated names for the moderate and just
rees of several passions; and hence some have rash-
nagined, that some of our natural passions are whol-
nd absolutely evil. And yet 'tis plain that there are
certain moderate degrees of these passions both in-
ent and necessary.

To illustrate all this by examples. A moderate de-
of *self-preservation* is both necessary and easy.
ere this is awanting, men shew a desperate audaci-
disposition without any caution. This temper is
rally restless, turbulent, and destructive both to
erson himself and to the society he lives in. Where
care of self-preservation is excessive, it appears in
idity and cowardice; dispositions quite useless to
ublick, and tormenting to the person, exposing
to all injuries and affronts.

moderate relish for *sensual pleasures* is useful, nay
ssary. An entire insensibility would deprive one
great deal of innocent pleasure; but seldom meet
ith any thing wrong on this side. Where the taste
o high, which we call luxury or intemperance,
nerally excludes all the more manly enjoyments,
neither

neither conſulting reputation nor honour; nor ev
health or fortune, or the preſervation of life. T
turn of mind too muſt frequently expoſe a man to co
tinual chagrin and uneaſineſs.

About our *eſtates* or *worldly goods* two virtues a
employed, *frugality*, which conſiſts in a wiſe mana
ment of them for honourable purpoſes, and *liberal*
which excites us to acts of kindneſs to others. T
former is abſolutely neceſſary to the exerciſe of the l
ter: both are pleaſant, advantageous, and honourab
the former more peculiarly ſubſervient to our adv
tage, and the latter to our honour. The exceſs of f
gality and defect of liberality is *avarice*, which i
mong the moſt deformed and moſt uneaſy vices, p
ſuing ſtores quite unneceſſary, and which it never
tends to uſe; ſtores that muſt be obtained with m
toil and uneaſineſs, and need rather more to pre
them. The defect of frugality and exceſs of libe
ty is *prodigality*, deſtructive to our fortunes, little
ſervient to the pleaſure or ſafety of life, or eve
fame, which it ſeems chiefly to have in view.

The higheſt pitch of liberality is called *magnifi*
where great expences are wiſely employed for
honourable purpoſes. The defect of this is ſeen
affectation or ſhew of magnificence with an unw
narrow heart. The exceſs is ſometimes ſeen in th
elegant boundleſs profuſion of perſons who have n
notion of decency and elegance.

The higheſt pitch of fortitude is in like manne
led *magnanimity*; or an elevation and firmneſs of
which no circumſtances of fortune can move, a

y at moral excellence in all its conduct. The ex-
e in exceſs often appears in a deſperate audacious
ition, ſtopping at no dangers. Such a temper muſt
angerous and uneaſy to the poſſeſſor, and inconſi-
with his ſafety, as well as that of others; as alſo
uctive of the liberty and dignity of all around. The
extreme is puſillanimity or cowardice, rendering
n uſeleſs and miſerable.

he like holds as to the *deſire of power* and pro-
n in the world: a moderate degree is uſeful and
aſy on a good man: when it grows exceſſive,
oth uneaſy and reſtleſs, and very vitious, and dan-
s to it ſelf and all around. Where it is too faint
eak even when juſt occaſions offer, men abandon
roper ſtation or opportunities of virtue and ho-

alſo a moderate *deſire of fame* is manifeſtly of
uſe, if we have yet higher deſires of virtue. The
of this deſire is reſtleſs and uneaſy, and often de-
d debaſes the true beauty of virtuous actions.
men want this deſire, or have it very languid,
ant a very potent incitement to all virtuous of-

can all *anger* or *reſentment* be condemned, al-
ere's little lovely in any degree of it. An entire
ility of all injuries, of which there are but few
s, would be a very inconvenient diſpoſition; ex-
a man to the contumelies and petulance of o-
nor well conſiſtent with his own character, or
ty of ſuch as he is bound to protect. Exceſſive
n the other hand is a moſt tormenting paſſion,
and

and often deſtructive to the perſon in whom it is fou
nor is there any paſſion more dangerous to ſociety.

There's a certain juſt *indignation*, becoming a go
man, when the worthleſs are promoted to power
dignity. One void of ſuch ſentiments would be
little ſolicitous about the intereſts either of his fri
or his country. But where this paſſion is exceſſive,
riſes without juſt cauſe (which we call *envy*, the co
mon ſpring of inveterate malice) it is the moſt deſtr
tive poiſon to the ſoul, tormenting to the breaſt wh
it reſides, and extremely vitious, leading into the
horrid crimes.

This is to be obſerved of all the unkind paſſions wh
partake of anger, that they ſhould be indulged no
ther than is plainly neceſſary for our own preſerv
on or that of our friends and country. If we could w
out theſe paſſions enſure their ſafety, there would be
thing deſireable or laudable in them: nay on the co
hand, nothing is more lovely than lenity, mercy,
cability and clemency.

Among the virtues of ſocial converſation, the
and chief is *veracity* and candour, of which we
treat more fully in * another place. The oppoſite v
are all as it were defects: lyes, deceit, fraud, c
hypocriſy and diſſimulation.

In the ſame claſs are ſome other virtues tend
give pleaſure to and oblige all we converſe with;
as *courteſy*, *good-manners*, *complaiſance*, *ſweetneſs*
ſantry, *wit*: all which are laudable and graceful,
promote friendlineſs and good-will in ſociety.

* Book ii. c. 10.

pp 97-8 missing

nd virtue, or even the more ingenious arts, is re-
ed honourable; ſo are alſo the profeſſions of law,
licine, and war, and ſome others of the more ele-
t arts. The more extenſive merchandiſe, and even
e mechanick arts, are juſtly reputable both on ac-
nt of their great utility, and the conſiderable abi-
s of mind requiſite in them Agriculture has been
chief delight of the fineſt ſpirits, as no manner of
is more innocent, none affording ſweeter amuſe-
nts, none more becoming a rational creature, or a
ſon of genteel taſte in life.

In the choice of our occupation or profeſſion for
our chief regard ſhould be to our natural genius.
as our ſucceſs in any occupation depends in the firſt
ce upon our genius, and next to it upon favourable
cumſtances of fortune, regard is to be had to both,
chiefly to our natural genius: for nature is a much
er and ſteddier principle.

CHAP. VII.

Some PRACTICAL CONSIDERATIONS *to excite &*
preſerve the STUDY *of* VIRTUE.

WE need not now ſpend many words in ſhewing t
neceſſity of purſuing virtue. For if we are
ficiently perſuaded that in it conſiſts our chief felici
and that all other things are uncertain, weak, fadi
and periſhing, nor ſufficiently adapted to the dignity
the rational nature, we muſt deem it neceſſary to e
upon that courſe of life which our conſcience or in
ſenſe, as well as right reaſon recommends, as moſt
ted to our nature, and which leads to the peculiar h
pineſs of rational beings: by which means alſo we e
erciſe and improve theſe powers which are ſupre
and moſt God-like in our conſtitution, and diſcha
the office impoſed upon us by God and nature.

With what other view has God given us ſouls
well fitted for the knowledge and practice of ſo m
virtues? To what purpoſe ſo many noble powers, ſ
furniture of ſoul for moſt excellent arts and offices; t
powers of reaſon and ſpeech, the powers of inventi
the deſires of knowledge, an almoſt boundleſs rete
on and memory of things paſt, a provident ſagacity
bout futurity reſembling divination, a ſenſe of wh
honourable and ſhameful as the controller of our lo
appetites; ſo many kind affections conſulting the g
of others, a conſcience or ſenſe diſtinguiſhing the r
fr

the wrong, the honourable part from the vitious
baſe: along with a ſtrength and grandeur of mind
enduring dangerous toils? To what purpoſe that
tration into nature which reaches even to the hea-
, diſcovers the Deity preſiding in the univerſe, diſ-
s his infinite perfections, and raiſes us to the hopes
mmortality after the diſſolution of the body?
Do we ſpeak only about Philoſophers? what nati-
r clan is there where there has not always prevail-
n univerſal and firm perſuaſion, that there is a
y, that he enjoins certain duties upon mankind,
ints them a certain moral character they muſt
ntain; and that their future ſtate after death ſhall
appy or miſerable according to their conduct in
world. Theſe therefor are the dictates of nature,
ments adapted to our frame, and ſupported by ob-
s reaſons, which continue coeval with mankind;
reas the credit of ill-founded fictions by length
me has always decayed, and at length vaniſhed a-

letaphyſicians ſuggeſt many other arguments for
mmortality of the ſoul; we only ſuggeſt here, that
e ingenious and artificial ſtructure of the univerſe
ds the ſtrongeſt arguments for the exiſtence of ar-
al intelligence, the Creator and ruler of this mate-
rame, ſo arguments exactly parallel to them, from
tructure of our ſouls, ſhew that God has alſo a re-
to the moral qualities, the virtues and vices of ra-
l creatures; and that he exerciſes a juſt moral go-
ment over them, under which happineſs muſt be
ed at laſt to the virtuous, and miſery alloted to the
vitious,

vitious. And ſince we ſee that this does not hold u
verſally in the preſent ſtate of this world, we may r
ſonably expect another diſplay or unfolding of the
vine adminiſtration in a future ſtate, in every reſp
worthy of God. This too is confirmed by the very
ture of the ſoul it ſelf. For that wonderful life and
tivity of our minds, that extenſive remembrance, t
ſagacious foreſight, thoſe noble powers and virtu
thoſe ingenious arts and ſciences and inventions, m
it incredible that ſubſtances containing ſuch excellen
can periſh along with theſe deſpicable bodies. N
ſuch proſpects of immortality muſt ſuggeſt the mo
tent motives to all virtue, and the ſtrongeſt diſſua
from vice.

II. AND that we may with greater reſolution
deavour to cultivate all virtue, let us have alway
hand theſe thoughts; (1.) That where there's an h
ty inclination to what is honourable and good, we
dom want ſtrength in execution, and have ground
hope for the divine aſſiſtance. We even ſee in the
dinary courſe of things, that by vigilance, activity,
wiſe deliberation, all matters generally ſucceed pro
rouſly: men daily increaſe in ability; their ſuper
powers acquire new ſtrength and command over
lower appetites; and what at firſt appeared hard
difficult, by cuſtom is made eaſy and even delig
The toil and trouble of any honourable offices will
be paſt and gone, but the remembrance of them
rem perpetual matter of joy.

(2.) But leaſt the keen deſires of the external ad
tages, and the alluring pleaſures of this life ſhould a

virtuous purſuits; we ſhould frequently conſider
the deepeſt attention what ſtable and ſolid joys
hopes accompany virtue: we ſhould conſider alſo
nature of all worldly enjoyments, and obtain that
contempt of them we often mentioned; and ever
in view the ſhortneſs of this life, and that death
ſoon overtake us all.

3.) And yet ſince there's a certain meaſure of ex-
al pleaſures and enjoyments natural and neceſſary,
muſt have ſome regard to them; provided we ſtill
ember that there are others much more important.
t we may not therefor ſeem obliged as it were to
are war againſt all the conveniences or pleaſures of
life, let us run over the ſeveral virtues, and ſee
much each of them generally contributes to our
ent proſperity and pleaſure.

Prudence which reſtrains the inconſiderate fooliſh
ulſes of the paſſions, muſt be alike neceſſary in e-
courſe of life whatſoever, that we may effectual-
urſue any end we propoſe, and not blinded by luſt
headlong into the objects of our ſtrongeſt averſi-

The ſeveral branches of *Juſtice* are of the greateſt
ſequence to maintain peace, to avoid offending and
oking others, to obtain ſafety, favour, reputation,
it, wealth, extenſive influence, and friends, which
the ſureſt defences againſt all dangers in life. Theſe
ues in their own nature preſerve the ſoul eaſy and
, and yield a joyful hope that we ſhall always ob-
ſuch things as are naturally neceſſary and [illegible]rable.
the other hand, where deſigns of violence and in-

juſtice

juſtice poſſeſs the heart, as they are turbulent and
eaſy in their own nature, ſo they devour the breaſt w
perpetual ſuſpicions, ſolicitudes, and fears. Need
ſpeak of the higheſt branch of juſtice, Piety tow
God? this ſecures to us the favour of the ſupreme G
vernour of the world, the ſovereign Arbiter of our
tunes, who will always provide for the virtuous, if
the things at preſent moſt pleaſurable, yet ſuch a
truly fitteſt for them, and moſt advantageous and pl
ſant at laſt. And from piety will ariſe the hope of
mortality which can always ſupport the ſoul in ev
circumſtance of fortune.

The ſeveral parts of *Temperance*, as they faithf
cheriſh all other virtues, ſo they tend to preſerve
improve our health, ſtrength, and even the beauty
grace of our perſons; as the tranquillity and inw
eaſe of the ſoul ſhews it ſelf in the countenance. A
frugality, a ſparing ſimple way of living, diligence, a
induſtry, are plainly ſubſervient to wealth and affluen
which luxury and intemperance tend to deſtroy;
they alſo impair our health, ſtrength, and beauty,
expoſe us to infamy and contempt; ſtupifying the
bler parts of the ſoul, and making all the lower app
tites outragious and intractable.

Fortitude and all its parts are a ſafeguard to ourſel
and our friends. Whereas by cowardice we not o
quit our ſtation of honour and virtue, but often inv
ourſelves in ſuch dangers as we might eaſily have e
ped by fortitude and preſence of mind. The per
void of this virtue muſt be in the power of oth
to make him what they pleaſe, by the threats of ev
ev

n to involve him in the moſt impious and baſeſt
es; which is a ſtate of miſerable ſervitude. If any
d man is threatned with great dangers, or expoſed
hem even on account of his virtues; as on ſuch oc-
ons he is entering on the moſt difficult combat, en-
ntering with our moſt capital adverſary, pain; 'tis
buſineſs to rouſe up all the forces of fortitude and
ence and reſignation, to recollect the ſacred laws
heſe virtues, which prohibit any effeminate weak-
, prohibit our ſinking or loſing ſpirit, or crouch-
under this load. Let him think with himſelf, now
ingaged in the moſt honourable combat, more glo-
s than the Olympicks; God preſides the witneſs,
e, and rewarder; 'tis cowardly and fooliſh when
prize is ſo glorious, to ſpare a life that muſt ſoon
ſh however, and perhaps in a more tormenting man-
by the force of ſome diſeaſe; a life too that does
extinguiſh the ſoul, but ſhall return to us again.
by ſuch repreſentations made to ourſelves of the
urable forms of virtue, fortitude, magnanimity,
to God, and patient reſignation, that ſuch pains
abated, and the terrors of death in ſome meaſure
n away.

II. IT was formerly obſerved that 'tis from God
have derived all our virtues. The Philoſophers
efor, as well as Divines, teach us to have recourſe
ently to God by ardent prayers, that, while we
xerting ourſelves vigorouſly, he would alſo adorn
ith theſe virtues, and ſupply us with new ſtrength.
y taught that no man ever attained true grandeur of
without ſome inſpiration from God. Need we add,

that the very contemplation of the divine perfection with that deep veneration which they excite, thanksgivings, praiſes, confeſſions of our ſins, and prayers, not only increaſe our devotion and piety, but ſtrengthen all goodneſs of temper and integrity. We ought therefor to have recourſe to the Deity in all difficulties, truſting in his aid, with firm purpoſes of acting the part which is moſt honourable; and recall to our thoughts, what virtues this emergence gives opportunity to exerciſe, what furniture or armour has God and nature given us for encountering with ſuch dangers? how joyful ſhall the remembrance be of our conquering ſuch temptations, and diſcharging our duty well? and how ſhameful to be conquered by the lurements of ſome trifling pleaſure, or the terror a little pain, and thus debaſe ourſelves by a vitious ignominious behaviour.

'Tis not our preſent purpoſe to unfold at length the precepts and motives to virtue. They may be found in the Greek and Roman Philoſophers and modern authors: in peruſing whom it may be proper to collect and keep ready for our uſe all the more lively and affecting ſentiments which occurr: and let us form and ſettle in our minds a lively notion of the grandeur and excellency of the ſeveral virtues, ſo that we mayn't queſtion but that ſuch as are poſſeſſed of them muſt be the truly wiſe and compleatly happy characters. * "Such a man "muſt be ſatisfied with himſelf, neither pining and fretting under troubles, nor broken with any terror, "nor tormented with any impatient ardent deſires, but "diſſolv

* Cicero's Tuſcul. Queſtions, Book iv.

diſſolved in trifling pleaſures and joys: to him no accidents of this mortal ſtate appear ſo intolerable as to ſink his ſpirits, nor ſo joyful as to give him high tranſports. And what is there in the purſuits of this world, and in this ſhort tranſitory life, that can appear of great conſequence to a truly wiſe man, whoſe ſoul is ſo conſtantly upon the watch, that nothing happens to him unforeſeen or ſurprizing, nothing unexpected, nothing new."

V. Now as 'tis the grand view of the good man, that according to the intention of nature he ſhould always be employed in contributing ſomething to the general intereſt and happineſs, which plainly requires that the numbers of mankind ſhould be joined in an amicable ſociety; he ought alſo carefully to enquire into the rules or dictates of right reaſon, by which every part of life is to be regulated, and by obſerving which he may on his part preſerve this ſocial union among mankind: and theſe precepts or concluſions of right reaſon collected together make what we call the *Law of Nature*; which is the next branch of Moral Philoſophy, of great uſe in the conduct of life.

AN INTRODUCTION TO MORAL PHILOSOPHY.

BOOK II.

ELEMENTS OF THE LAW OF NATURE.

CHAP I.

Of the LAW *of* NATURE.

THAT we may ſhew how all the ſeveral parts of life may be brought into a conformity to nature, and the better diſcern the ſeveral Rights and Duties of Mankind, we ſhall premiſe the more general Doctrine in Morals, explaining ſome pretty complex notions and terms conſtantly occurring; and this is the ſubject of this and the two following chapters.

In the preceeding book we ſhewed, how from the very ſtructure of our nature we derived our firſt notions of right and wrong, virtuous and vitious, in our affections and actions: and that it was then *right* and good that any Perſon ſhould act, poſſeſs, or demand from others, in a certain manner, "when his doing ſo tend-

"ed

" ed either directly to the common intereſt of all, o
" to the intereſt of ſome part or ſome individual, with
" out occaſioning any detriment to others." And hence we ſay in ſuch caſes that a man *has a right* thus to act, poſſeſs or demand: and whoever would obſtruct or hinder him thus to act or poſſeſs, or would not comply with ſuch demand, is ſaid to do an *injury* or wrong.

But reſuming this matter a little higher; 'tis plain that this ſtructure of our nature exhibits clear evidences of the will of God and nature about our conduct, requiring certain actions and prohibiting others. The notion of a *law* to which our actions may be compared, is, no doubt, *artificial*, formed upon obſervation; and yet it has in all ages been ſo obvious and familiar to men that it may alſo be called natural. For the notion of a *juſt power*, or *right of governing* others, is obviouſly intimated, from that power nature has inveſted the Parent with, over his children, ſo manifeſtly tending to their good. And this too is known to all by conſtant experience, that the bulk of mankind do by any nice reaſonings or obſervation of their own diſcover what is advantageous or hurtful in life; nay that the greater part of the practical ſagacity and wiſdom of the generality depends upon the diſcoveries and inſtructions of a few, who have had greater penetration and ſagacity: and ſince 'tis commonly known, and even the men of leſs ſagacity acknowledge it, that there are great diverſities of genius, and that ſome few have ſuperior abilities to the common herd: that moral principle implanted in all muſt alſo recommend it as advantageous to all, that large ſocieties of men united

common intereſt, ſhould commit the adminiſtra-
of their common concerns to a council of a few of
wiſer ſort, and compell any who may thereafter
efractory to ſubmit to their orders, who have thus
ined a juſt right of governing. Hence the notion
uſt power, or of a *right of governing*, is among
moſt common and familiar with mankind, when
the very plan and model of power conſtituted,
's tolerable precaution taken that the Rulers ſhall
either no inducements to abuſe it to the detriment
e whole body, or no hopes of doing ſo with im-
y. Hence the notion of *law* too is obvious to all,
t, "The will of thoſe veſted with juſt power of
verning, declared to their ſubjects, requiring cer-
in actions and forbidding others with denunciati-
s of rewards or puniſhments.

. Now ſince 'tis generally agreed among men,
he Deity is endued with the higheſt goodneſs, as
s with wiſdom and power; it muſt obviouſly fol-
hat an univerſal compliance with the will of God
tend both to the general good, and to that of
ndividual; to which compliance alſo we are moſt
ly bound in gratitude, as we were created by
and are conſtantly deriving good from his muni-
hand: it muſt alſo in like manner follow, that
ſobedience to the will of God muſt be oppoſite
common felicity, and ſhew a baſe ungrateful
Now theſe conſiderations plainly ſhew that it is
tly juſt and right in the Deity to aſſume to him-
e government of his rational creatures, and that
ht is founded upon his own *moral excellencies*.

But

But ſince no man can give ſufficient evidence to
ſatisfaction of all, that he is poſſeſſed even of ſup
our wiſdom, and much leſs of his ſtable inflexible goo
neſs; ſince ambitious diſſimulation would always ma
the greateſt ſhew of goodneſs, if this were a ſure
to aſcend to power; nor can men ſearch into each
thers hearts to detect ſuch hypocriſy: and ſince no po
er generally ſuſpected and dreaded can make a peop
who are diffident of their moſt important intereſts,
ſy or happy; no man can juſtly aſſume to himſelf po
er over others upon any perſuaſion of his own ſup
wiſdom or goodneſs, unleſs the body of the people
alſo perſuaded of it, or conſent to be ſubjected to
power, upon ſome reaſonable ſecurity given them,
the power intruſted ſhall not be abuſed to their
ſtruction.

III. AND further ſince it was God our Creator w
implanted this ſenſe of right and wrong in our ſo
and gave us theſe powers of reaſon, which obſer
our own conſtitution, and that of perſons and o
things around us, diſcovers what conduct tends e
to the common proſperity of all, or that of individ
and what has a contrary tendency; and ſhews alſo
all ſorts of kind offices generally tend to the happ
of the perſon who diſcharges them, and the con
offices to his detriment: all theſe precepts or pre
dictates of *right reaſon* are plainly ſo many *laws**
acted, ratified by penalties, and promulgated by
in the very conſtitution of nature. [As words or wri

* On this ſubject ſee Cumberland's *Prolegomena*, or intro
tion, and Ch. 1. Concerning the law of nature.

ot eſſential to the nature of a law, but only the moſt enient way of notifying it.]

every law there are two parts, the *precept* and *ſanction*. The precept ſhews what is required or idden; and the ſanctions contain the rewards or ſhments abiding the ſubjects, as they obſerve or te the precept. In Civil Laws, beſide the peculi- wards or *premiums* propoſed in ſome of them, there s general reward underſtood in them all, that by ience we obtain the defence and protection of the with the other common advantages of a civilized and the rights of citizens. The penalties of hu- laws are generally expreſſed. The ſanctions of law of nature are known and promulgated in like ner with the preceptive part. The *rewards* are oſe internal joys and comfortable hopes which rally attend a virtuous courſe; and all theſe exter- dvantages whether immediately ariſing from good ns, or generally obtained by the good-will and bation of others, or of the Deity, whether in this r in a future ſtate. The *penalties* are all thoſe internal or external, which naturally enſue upon ; ſuch as remorſe, ſolicitude, and diſtreſſing fears dangers: in fine, all theſe evils which right reaſon may probably be expected to enſue through the eſentment of the Deity or of our fellow-creatures.

V. THE divine laws according to the different ers of promulgation are either *natural* or *poſitive*. *ral* laws are diſcovered by our reaſon obſerving atures of things. *Poſitive* laws are revealed only ords or writing. Laws may again be divided ac-

cording to the matter of them into the *neceſſary* and the *not-neceſſary*. Every ſort of law indeed ſhould have in view ſome real benefit to the ſtate: but ſome laws point out the ſole and neceſſary means of obtaining ſome great benefit, or of averting ſome great evil; ſo that contrary or even different laws could not anſwer the neceſſary purpoſes of ſociety: while others only fix upon the moſt convenient means, where many others might have tolerably anſwered the end; or, where there's a variety of means equally appoſite, yet fix upon one ſet of them, when 'tis neceſſary that multitudes ſhould agree in uſing the ſame means. Such is the care in appointing *ſet times* and *places*, and other *circumſtances*, where matters of common concern are to be tranſacted jointly by many. Theſe latter ſort of laws are alſo called *poſitive* as to their matter, and the former *natural*, in the ſame reſpect.

V. LAWS generally reſpect alike a whole people, or at leaſt all of a certain claſs or order; this holds to all natural laws. But ſometimes civil laws are made in ſingular caſes, reſpecting only one perſon; theſe the Romans called *privilegia*; which were either out of ſingular favour, or ſingular reſentment. If ſuch *privileges* are granted for extraordinary merits, and have no pernicious tendency toward the body, they are very juſtifiable. Caſes may happen too, tho' ſeldom, in which it may be juſt to bring to puniſhment ſome very artful dangerous criminal by a ſpecial law, which is not to be made a precedent in the ordinary procedure of juſtice.

Equity is ſometimes underſtood as ſomething diſtinct

n *ſtrict law*, being " the reaſonable wiſe correcti-
n of any imperfection in the words of the law, by
heir being either not ſufficiently extended, or too
xtenſive in regard to the true reaſon or deſign of
he law." This equity has place only as to laws
mulgated in words; for the law of nature deter-
es all points, not by words but, by right reaſon,
what is humane and good.

VI. THE doctrine of *diſpenſations* was brought in
he Canon-law. A diſpenſation is " the exempting
ne out of ſpecial favour from the obligation of a
w." Diſpenſations are either from the preceptive
, or from the ſanction, in remitting the penalty.
ere the penalty is remitted or altered in ſuch a
ner as conſiſts with the common ſafety, and does
weaken the authority and influence of the law, it
ot to be blamed. Such a diſpenſing power for ſin-
r important reaſons is frequently veſted in the ſu-
ne Rulers or Magiſtrates of States. But for previ-
exemptions from the preceptive part of any wiſe
they can never be reaſonable.

ut firſt, we don't count it a diſpenſation when any
uſing his own right and the ordinary power ve-
in him by law, frees another from ſome legal obli-
on, or impoſes a new one. As when a creditor re-
a debt; or the ſupreme Governor commiſſions ſub-
to act in his name what he has a right to execute,
without ſuch commiſſion theſe ſubjects had acted
ally in doing ſo.

gain, ſometimes by laws, whether divine or human,
xternal impunity may be juſtly and wiſely grant-

ed to ſuch conduct as is very vitious and culpable; i
either through the ſtupidity or depravity of the peopl
ſuch vices could not be reſtrained without much gre
ter inconvenience than what ariſes from the permiſſi
on of them. But this comes not up to the notion o
diſpenſation.

But in the third place, no grant or permiſſion of a
ny governor, human or divine, can make evil malev
lent affections become morally good or innocent, o
benevolent ones become evil: nor can the moral na
ture of actions flowing from them be any more alter
by mere command or permiſſion. The *diſpenſation*
therefor, the *Canoniſts* intend, are then only juſtifiable
when the laws themſelves are bad or imprudent,
which the Canon-law contains a great multitude.

VII. The *Law of nature* as it denotes a large co
lection of precepts is commonly divided into the *pri*
mary and *ſecondary*; the former they ſuppoſe imm
table, the latter mutable. This diviſion is of no uſe
ſome explain it, * that the primary conſiſts of ſelf-ev
dent propoſitions, and the ſecondary of ſuch as requi
reaſoning. Many of thoſe they count primary requi
reaſoning: nor are juſt concluſions more mutable th
the ſelf-evident premiſes. The only uſeful ſenſe of th
diſtinction is, when ſuch precepts as areabſolutely n
ceſſary to any tolerable ſocial ſtate are called the *pri*
mary; and ſuch as are not of ſuch neceſſity, but ten
to ſome conſiderable improvement or ornament of li

* See *Vinnius*'s comment on the Inſtit. lib. i. 2. 11. T
ſame diſtinction is variouſly explained by other authors; b
ſcarce any of them ſo explain it as to make it of importan

e called *ſecondary*. But theſe latter in the ſight of
d and our own conſciences are not mutable, nor can
tranſgreſſed without a crime, more than the prima-
altho' there may be many political conſtitutions
ere the violation of theſe ſecondary precepts paſſes
th impunity.

From the doctrine of the former book it muſt ap-
r, that all our duties, as they are conceived to be
joined by ſome divine precept, are included in theſe
o general laws, the one that "God is to be wor-
ſhipped with all love and veneration:" and in con-
uence of it, that "he is to be obeyed in all things.
The ſecond is, that "we ought to promote as we
have opportunity the common good of all, and that
of particlar ſocieties or perſons, while it no way ob-
ſtructs the common good, or that of greater ſocie-
s."

CHAP.

CHAP. II.

Of the NATURE *of* RIGHTS, *and their ſeveral* DIVISIONS.

SINCE it is manifeſtly neceſſary to the common intereſt of all that large numbers of men ſhould be joined together in amicable ſocieties, and as this is the ſum of all our duties toward men that we promote their happineſs as we have opportunity; it muſt follow that all actions by which any one procures to himſelf or his friends any advantage, while he obſtructs no advantage of others, muſt be lawful: ſince he who profits one part without hurting any other plainly profits the whole. Now ſince there are many enjoyments and advantages naturally deſired by all, which one may procure to himſelf, his family or friends, without hurting others, and which 'tis plainly the intereſt of ſociety that each one ſhould be allowed to procure, without any obſtruction from others, (ſince otherways a friendly, peaceable ſociety could be maintained:) we therefor deem that each man has a *right* to procure and obtain for himſelf or his friends ſuch advantages and enjoyments; which Right is plainly eſtabliſhed and ſecured to him by the ſecond general precept above mentioned, enjoining and confirming whatever tends to the general good of all, or to the good of any part without detriment to the reſt. In all ſuch caſes therefor men are ſaid to act according to their *rights*.

l then, as the ſeveral offices due to others are re-
mended to us by the ſenſe of our own hearts; ſo
ers in a ſocial life have a claim to them, and both
re, and naturally or juſtly expect them from us, as
e way due to them: in conſequence of this it muſt
ear, that the ſeveral rules of duty, or ſpecial laws
ature, cannot be delivered in a more eaſy manner
by conſidering all the ſeveral *claims* or *rights* com-
nt either to individuals, to ſocieties, or to mankind
eneral as a great body or ſociety; all which are the
ter of ſome ſpecial laws.

The ſeveral rights of mankind are therefor firſt made
wn, by the natural feelings of their hearts, and their
ral deſires, purſuing ſuch things as tend to the good
ach individual or thoſe dependent on him: and re-
mending to all certain virtuous offices. But all ſuch
nations or deſires are to be regulated by right rea-
with a view to the general good of all.

Thus we have the notion of *rights* as moral quali-
s, or *faculties*, granted by the law of nature to cer-
perſons. We have already ſufficiently explained
theſe notions of our *rights* ariſe from that *moral*
of right and wrong, natural to us previous to any
ideration of law or command. But when we have
nded to the notion of a divine natural law, requir-
whatever tends to the general good, and containing
heſe practical dictates of right reaſon, our definiti-
of moral qualities may be abridged by referring
to a law; and yet they will be of the ſame im-
; if we ſtill remember that the grand aim of the
law

law of nature is the general good of all, and of every part as far as the general intereſt allows it.

A Right therefor may be defined "a faculty or "claim eſtabliſhed by law to act, or poſſeſs, or ob"tain ſomething from others;" tho' the primary notion of right is prior to that of a law, nor does it always include a reference to the moſt extenſive intereſt of the whole of mankind. For by our natural ſenſe of right and wrong, and our ſympathy with others, we immediately approve any perſons procuring to himſelf or his friends any advantages which are not hurtful to others without any thought either about a law or the general intereſt of all. For as the general happineſs is the reſult of the happineſs of individuals; and God has for the benefit of each individual, and of families, implanted in each one his private appetites and deſires with ſome tender natural affections in theſe narrow ſyſtems: actions flowing from them are therefor naturally approved, or at leaſt deemed innocent, and that immediately for themſelves, unleſs they ſhould appear hurtful to others, or oppoſite to ſome nobler affection. Hence every one is conceived to have a *right* to act or claim whatever does no hurt to others, and naturally tends to his own advantage, or to that of perſons dear to him.

And yet this we muſt ſtill maintain, that no private right can hold againſt the general intereſt of all. For a regard to the moſt extenſive advantage of the whole ſyſtem ought to controll and limit all the rights of individuals or of particular ſocieties.

II. No

II. Now ſince a friendly ſociety with others, and mutual intercourſe of offices, and the joint aids of ny, are abſolutely neceſſary not only to the pleaſure convenience of human life, but even to the preſer- on of it; which is ſo obvious * that we need not rea- upon it. Whatever appears neceſſary for preſerving micable ſociety among men muſt neceſſarily be en- ed by the Law of Nature. And in whatever cir- ſtances the maintaining of peace in ſociety requires, certain actions, poſſeſſions, or claims ſhould be left and undiſturbed to any one, he is juſtly deemed ve a *right* ſo to act, poſſeſs, or claim from others. ome law anſwers to each right, ſo does an *obliga-* This word has two ſenſes, 1. We are ſaid to be *ed* to act, or perform to others, "when the in- ard ſenſe and conſcience of each one muſt approve ch action or performance, and muſt condemn the ntrary as vitious and baſe:" in like manner we ive an obligation to omit or abſtain. This ſort of ation is conceived previous to any thought of the ction of a law. 2. Obligation is ſometimes taken a motive of intereſt ſuperiour to all motives on other ſide, propoſed to induce us to certain acti- or performances, or omiſſions of action." Such es indeed muſt ariſe from the laws of an omnipo- Being. This latter meaning ſeems chiefly intend- theſe metaphorical definitions of great authors, would have all obligation to ariſe from the law of erior, † "*a bond of right binding us by a neceſ-*

* Cicero's Offices, B. ii. 3, 4, 5, *&c.*

† Theſe are the definitions of *Puffendorf*, and of *Barbey-*

"*ſity of acting or abſtaining*" or an "*abſolute neceſſity impoſed upon a man, to act in certain manner.*

III. RIGHTS according as they are more or leſs neceſſary to the preſervation of a ſocial life are divided into *perfect* and *imperfect*. Perfect rights are of ſuch neceſſity that a general allowing them to be violated muſt entirely deſtroy all ſociety: and therefor ſuch rights ought to be maintained to all even by violence and the ſevereſt puniſhments inflicted upon the violation of them.

Imperfect rights or claims are ſometimes indeed of the greateſt conſequence to the happineſs and ornament of ſociety, and our obligation to maintain them and to perform to others what they thus claim, may be very ſacred: yet they are of ſuch a nature that greater evils would enſue in ſociety from making them matters of compulſion, than from leaving them free to each one's honour and conſcience to comply with them or not. 'Tis by a conſcientious regard to theſe imperfect rights or claims of others, which are not matters of compulſion, that virtuous men have an occaſion of diſplaying their virtues, and obtaining the eſteem and love of others.

Yet the boundaries between perfect and imperfect rights are not always eaſily ſeen. There is a ſort of ſcale or gradual aſcent, through ſeveral almoſt inſenſible ſteps, from the loweſt and weakeſt claims of [illegible] man

rac in his notes on *Grotius*, as alſo in his animadverſions on a *Cenſure upon Puffendorf*, aſcribed commonly to Mr. *Leibnitz*, publiſhed with the French Tranſlation of the book *Officio Hominis et Civis.*

nity to thoſe of higher and more ſacred obligation, we arrive at ſome imperfect rights ſo ſtrong that y can ſcarce be diſtinguiſhed from the perfect, ac-ding to the variety of bonds among mankind, and various degrees of merit, and claims upon each o-r. Any innocent perſon may have ſome claim up-us for certain offices of humanity. But our fellow-zen or neighbour would have a ſtronger claim in the caſe. A friend, a benefactor, a brother, or a pa-t would have ſtill a ſtronger claim, even in theſe gs which we reckon matters of imperfect obligati-

There's alſo a third kind of Right, or rather an ex-al ſhew of it, which ſome call an *external right:* n ſome more remote conſiderations of diſtant utili-equire that men ſhould not be reſtrained in certain ons, enjoyments; or demands upon others, which are not conſiſtent with a good conſcience, or good l diſpoſitions. Theſe external ſhews of Right, h will never ſatisfy a good man as a foundation of duct, often ariſe from imprudent contracts raſhly ed into by one of the parties, and often even from wiſeſt Civil Laws.

'Tis plain here, that there can be no oppoſition ei-between two perfect rights or two imperfect ones. imperfect rights may be contrary to theſe called nal. Since however the imperfect rights are not ers of juſt force or compulſion; wars, which are nt proſecutions or defences of ſome alleged rights, ot be juſt on both ſides.

IV. RIGHTS are alſo divided into the *alienable*, and ſuch as *cannot be alienated* or transferred. Theſe are alienable, where the transfer can actually be made, and where ſome intereſt of ſociety may often require that they ſhould be transferred from one to another. Unleſs both theſe qualities concurr, the Right is to be deemed unalienable. 'Tis plain therefor, for inſtance, that for defect of both theſe qualities, our opinions in matters of Religion are unalienable; and ſo are our internal affections of devotion; and therefor neither of them can be matters of commerce, contract, or human laws. No man can avoid judging according to the evidence which appears to him; nor can any intereſt of ſociety require one to profeſs hypocritically contrary to his inward ſentiments; or to join in any external worſhip which he judges fooliſh or impious, and without the ſuitable affections.

From the general account given of the nature of Right, theſe muſt be the two fundamental precepts of a ſocial life; firſt, that "no man hurt another" or occaſion any loſs or pain to another which is neither neceſſary nor ſubſervient to any ſuperior intereſt of ſociety. The ſecond is "that each one on his part, as he has "opportunity, ſhould contribute toward the general "intereſt of ſociety;" at leaſt by contributing toward the intereſt of his friends or family. And he who innocently profits a Part, contributes alſo in fact to the good of the whole.

CHA

CHAP. III.

ncerning the VARIOUS DEGREES *of* VIRTUE *and* VICE, *and the Circumſtances on which they depend.*

THAT inward power called *Conſcience*, ſo much talked of, is either this very moral ſenſe or faty we have explained, or includes it as its moſt eſtial part; ſince without this ſenſe we could diſcern moral qualities. But when this is preſuppoſed, our ſon will ſhew what external actions are laudable or ſurable according as they evidence good or evil afions of ſoul. *Conſcience* is commonly defined to be a man's judgment concerning the morality of his acions;" or his judgment about his actions as to their formity or contrariety to the law. And an action hen ſaid to be *imputable*, when by its proceeding m his will it evidences his temper and affections to virtuous or vitious.

The common diviſions of conſcience, into *certain*, *bable*, *doubtful*, or *ſcrupulous*, need no explication. hen we deliberate about our future actions 'tis cal*antecedent*: when we judge of paſt actions, 'tis cal*ſubſequent conſcience*.

The antecedent conſcience of a good man, or his preus deliberations, turn upon the tendencies of acti- to the general good of all, or to the innocent enjoyts of individuals, or of parts of this ſyſtem: and tendency makes an action *materially good*. For actions

actions are called good *materially*, by their having this tendency, or their being required by the law, whatever were the motives or views of the agent. The *subsequent conſcience* regards chiefly the motives, deſign, and intention, on which depends what is called *formal goodneſs*. For ſuch actions are called formally good as agree with the law in all reſpects, and flow from good affections.

II. THE circumſtances regarded in comparing the morality of actions are of three ſorts, as they relate either to the *underſtanding*, or to the *will*, or to the *importance* of the action itſelf conſidered along with the abilities of the agent.

But here 'tis previouſly certain, that ſuch actions alone are matter of praiſe or cenſure, or can be *imputed*, which are done with knowledge and intention, and which had not happened if we had ſeriouſly reſolved against them. And that in like manner no omiſſion can be imputed where the moſt hearty inclination would have been without effect. Such actions or omiſſions are called *free* or voluntary, and ſuch alone carry an evidence of the goodneſs or depravity of the temper. Neceſſary events therefor, which would happen even without our knowledge, or againſt our will, are no matter of imputation; nor is the omiſſion of an impoſſibility, which no deſire of ours could have accompliſhed, any matter of imputation. But this is not the caſe with ſuch actions as are only called neceſſary on this account, that the agent's inclination and turn of temper this way, or his paſſions, were ſo ſtrong, that during that temper of his he could not will otherways. Nor is

e caſe in omiſſions of ſuch actions as are therefor on-
called impoſſible, becauſe ſuch was the perſon's de-
avity of temper that he could have no inclination to
em. Virtue and vice are primarily ſeated in the tem-
r and affections themſelves; and 'tis generally in our
n power in a conſiderable degree to form and alter
r tempers and inclinations.

There are three claſſes of actions called involunta-
, to wit, ſuch as we are compelled to by ſuperior *ex-*
nal force; ſuch as we do *ignorantly*; and ſuch as
called *mixed*, when we do what of it ſelf is very
agreeable in order to avoid ſome greater evil. What
n are driven to by external force is imputable only
him who uſes the violence. What is done through
orance is imputed differently according as the igno-
ce is culpable or not. But the actions called *mixed*
all imputed, as they are truly free, and proceed
m the will: but they are imputed as innocent or as
ninal, according as the evil avoided was in its whole
ct greater or leſs than the evil done to avoid it.
w moral evils, and ſuch as hurt the common inte-
, are greater than the natural evils, and ſuch as
t only the agent.

II. As to the circumſtances relating to the under-
ding: altho' all moral virtue and vice is primarily
ed in the will, yet frequently our ignorance or er-
about the nature of the things we are employed a-
t may affect the morality of actions. And altho'
beſt of men muſt intend what is in fact evil, if it
ear to them to be good; yet ſuch miſtakes are fre-
ntly blameable, if the error or ignorance was any
way

way voluntary, and what could have been avoided by such diligence as good men commonly uſe in ſuch caſes. That ignorance indeed which is wholly involuntary and *invincible* excuſes from all blame.

Voluntary or vincible ignorance is either *affected* when men directly deſign to avoid knowing the truth with ſome apprehenſions of it: or what ariſes from groſs *negligence* or ſloth; when men have little ſolicitude about their duty, and take little thought about their conduct. The former no way diminiſhes the guilt of the action. The latter may be ſome alleviation of guilt, and that more or leſs, according as the ſloth was greater or leſs, or the diſcovery of the truth was more or leſs difficult.

Ignorance truly involuntary is ſo either *in it ſelf but not in its cauſe*, or it is involuntary in both reſpects. The former is the caſe when at preſent, and in the midſt of action, men cannot diſcover the truth tho' they earneſtly deſire it; but had they formerly uſed the diligence required of good men they might have known it. The latter is the caſe when no preculpable negligence occaſioned our ignorance: and this ſort excuſes altogether from guilt, but not the former. There is indeed no moral turpitude at preſent ſhewn by a man's acting what at preſent appears to him to be good; but ignorance or error, tho' at preſent invincible, may be a ſtrong evidence of a preculpable negligence, which may diſcover a depraved of temper.

Ignorance is either about matter *of law* or matter *of fact*. This diviſion takes place chiefly in poſitive

ws: for in the law of nature if the fact, or natural dency and conſequents of actions, beneficial or per-ious to ſociety, are known, this it ſelf makes the ws known.

IV. FROM theſe principles we may anſwer the chief eſtions about an erroneous conſcience. 1. Error or orance of the law of nature is generally culpable; in very various degrees, according to the different rees of natural ſagacity in men, and their different ortunities of information and inquiry, and as the s themſelves are more or leſs eaſy to be diſcovered. 2. To counteract conſcience in doing what we deem ous, or in omitting what we take to be our duty, always be evil; as it ſhews ſuch depravation of temper that a ſenſe of duty is not the ruling prin-. But this guilt too is of very different degrees, rding to the ſanctity of the ſeveral duties omitted, he turpitude of crimes we commit; and the diffe-ſorts of motives, more or leſs favourable, which ed us to this conduct. For ſometimes 'tis only the ur of the moſt formidable evils which almoſt en-us, ſometimes lovely principles of friendſhip, gra-e, filial duty, parental affection, or even love of a try, which induce us to act againſt our conſciences; in ſuch caſes the guilt is conſiderably alleviated.

In following an erroneous conſcience, the guilt s not in thus following it, or doing what we deem our duty; but it lies rather in ſomething culpable error it ſelf, or in the cauſes of it, and this in s degrees. For ſome errors of themſelves ſhew a temper, influenced directly by malice, pride, or

cruelty: others ſhew only negligence and inattention, or that the nobler affections of heart are too weak.

4. 'Tis generally true that counteracting even an erroneous conſcience is worſe than following it. In both caſes the guilt of the error is equal; and he who counteracts his conſcience ſhews alſo a new contempt of the divine law. And yet where ſome of the more humane and lovely diſpoſitions carry it againſt the commands of an erroneous conſcience, guided rather by authority and ſome confuſed notions of duty, than any diſtinct view of moral excellence in what it commands, the diſobeying it may be a better ſign of the temper than following its dictates. As in the caſe of one who deems it his duty to perſecute for Religion, and yet is reſtrained from it by humanity and compaſſion.

V. THE circumſtances affecting the morality of actions which relate to the Will muſt appear from what was ſaid above; that all kind affections of ſoul are amiable, and the contrary vitious; as is alſo exceſſive ſelf-love, and a keen deſire of ſenſual pleaſures; that the calm ſtable affections of a friendly ſort are more lovely, than the turbulent paſſions; and that the more extenſive are the more honourable.

1. Such duties therefor as are done deliberately, from ſteddy purpoſe of heart, are more lovely than thoſe whch proceed from ſome ſudden guſts of kind paſſions.

2. And in like manner ſuch injuries as are done deliberately and with premeditation, or from inveterate ill-will, are much worſe than thoſe which ariſe from

lden anger, fear, or ſome paſſionate bent toward
eaſure.

As to all motions of anger and fear, which aim at the
pelling ſome impendent evil, we may obſerve; that
the firſt ſtep, and moſt neceſſary one, toward happi-
s and eaſe, is the warding off of pain, and the firſt
ce of virtue is the avoiding vice; the paſſions of *a-
rſion from evil* are naturally ſtronger in their kind,
n thoſe purſuing poſitive good; and as 'tis harder
reſiſt their impulſes, they are greater alleviations of
lt, in vitious actions, tho' none of them can wholly
e it away; ſince it is always in one's power, who
an hearty concern about virtue, and ſets himſelf to
o reſtrain theſe paſſions in a great meaſure, and pre-
t their breaking out into external actions.

. We cannot expect the ſame degrees of benefi-
ce, or a like extent of it, in all equally good cha-
ers, conſidering the different tempers of men, their
erent abilities, opportunities, leiſure, or hurry of
neſs.

. There are great differences in point of moral ex-
ence among the ſeveral narrower ſorts of kind af-
ions, according to their different ſprings or cauſes,
e of which are far more honourable than others.
t good-will which ariſes from ſome conjunctions of
reſt, ſo that we wiſh well to others only for our
interest ariſing from their proſperity, tho' it may
ree from any moral turpitude, yet has nothing mo-
amiable; ſince ſuch affection may be found in the
t of men, and may have the worſt for its object:
s there much moral beauty in the affections mere-

ly founded on the tyes of blood, or in the paſſions of lovers. Theſe motions are generally turbulent and are all of a narrower kind: and ſuch is the conſtitution of our nature, that they are often found among ſuch as ſhew ſcarce any other virtues. And yet the want of ſuch affections in ſuch relations, would ſhew a great depravity. That heart muſt be ſingularly hard and inſenſible to kind affections which cannot be moved by them by theſe ſtrong natural cauſes.

There is an higher moral beauty in that good-will and gratitude which ariſes from benefits received, when it is truly ſincere, without any ſhew or oſtentation deſigned to obtain further favours. In a like claſs we may reckon pity and compaſſion, with a deſire of giving relief to the diſtreſſed. And yet theſe two are of a narrower nature: and ſuch is the frame of the human heart, ſo ſtrong are theſe impulſes, that none but monſters are void of all degrees of ſuch affections. In the common offices of theſe kinds there's no eminent virtue; but in neglecting or omitting them, contrary to ſuch ſtrong natural impulſes, there muſt be evidenced great depravation.

That love ariſing from a conformity of virtuous diſpoſitions, which we call friendſhip, is far more lovely as it ſhews an high reliſh for moral excellence, and that affection which would extend to many in a conſiderable degree, if like virtues appeared in them. A ſtrong love for one's country, is yet more excellent. But of all ſocial affections that is moſt amiable, which, conjoined with wiſdom, is ſtedfaſtly ſet on promoting the

ſt extenſive happineſs of all mankind, and doing
d to each one as there is opportunity.

And yet the common intereſt of the whole, which
h the nobler deſires of the ſoul, and our moral ſenſe
ſly recommend to our care, plainly requires that
h one ſhould more peculiarly employ his activity for
intereſt of ſuch whom the ſtronger ties of nature
e peculiarly recommended, or entruſted to his care,
far as their intereſts conſiſt with the general good,
that his ordinary occupations ſhould be deſtined
their benefit. The bulk of mankind have no abi-
or opportunity of promoting the general intereſt
other more immediate way.

VI. THESE ſeem to be general rules of eſtimati-
in this matter. The ſtronger that the natural im-
ſe is in any narrower ties of affection, the leſs there
f moral beauty in performing any ſuppoſed offices;
the greater is the moral deformity of omitting
m. The ſtronger the moral obligation is to any per-
mance, or the *right* by which others claim it, the
laudable is the performance, and the more cenſu-
le and injurious is the omiſſion or refuſal of it. And
weaker the *right* or claim of others is, 'tis the leſs
ous to have omitted or refuſed any office, and 'tis
more honourable to have readily performed it;
vided we ſhew a readineſs proportionably greater in
forming ſuch offices as others have a more ſacred
m to.

In comparing vitious actions or deſigns, other cir-
ſtances being equal, the turpitude is the leſs, the
ater or the more ſpecious the motives were which
induced

induced us to it. To have violated the laws of uni-verſal juſtice out of zeal for our country, or to have neglected the intereſt of our country from zeal for our friends, or from gratitude to our benefactors, is not ſo baſe and deformed, as if one had neglected or coun-teracted theſe more extenſive intereſts for his own gain, or for any ſenſual gratification; this laſt excuſe is indeed the meaneſt of all.

As far as any views of one's own advantage have ex-cited a man to ſuch actions as are in their own nature good, ſo far the moral beauty is abated: and when there was no other affection moving him, there remains no moral beauty, tho' the action may ſtill be innocent or void of any vice.

Where any ſuch views of intereſt as muſt exceedingly move even the beſt of men, have excited one to what is culpable, the moral turpitude is diminiſhed on that account. The paſſions excited by the preſent ap-prehenſion of ſome great evil make a much greater impreſſion upon the beſt of men, than ſuch as ariſe from proſpects of any new advantages or pleaſures, and therefor they are much ſtronger alleviations of guilt. Keen ſelfiſhneſs, or love of pleaſures, are of them-ſelves diſhonourable; and ſhew that the meaner parts of the ſoul have uſurped a baſe tyranny over its noble faculties.

The honourable offices we undertake, if they are ex-penſive, toilſome, or dangerous to ourſelves, they are on this account the more honourable. And yet ſince the grand aim of the good man is the promoting of publick good, and not the pleaſing himſelf with an ad-admi-

miration of his own virtues; he muſt alſo endeavour fortify his ſoul, as much as he can, to ſurmount all urements or temptations tending a contrary way: d this is moſt effectually done by a deep perſuaſi- that a perfectly juſt and wiſe Providence governs e world, will take care of the intereſts of the virtu- s; and that the only path to an happy immortality by virtue: the good man therefor will be far from cluding out of his counſels theſe glorious hopes, nay will cheriſh and confirm them; that he may thus be- me the more inflexible and ſteddy in every virtuous ſign.

VII. As to the *importance* of actions and the *abi- ies* of the agents, theſe general rules ſeem to hold. That, other circumſtances being equal, the moral odneſs of actions is proportioned to their importance the common intereſt, which the agent had in view.

2. When other circumſtances are equal, the virtue an action is *inverſely* as the abilities of the agent: t is, when the importance of two actions is equal, ſhews the greater virtue who with ſmaller abilities, uals the more potent in his beneficence.

3. The like obſervations hold about the vice of evil ions, that it is *directly* as their importance to the pu- ck detriment foreſeen, and *inverſely* as the abilities the agents: or that theſe are worſt which have the rſt tendency; or which undertaken by perſons of lit- power, ſhew that they have malitiouſly exerted all ir force in doing miſchief.

4. In eſtimating the importance of actions, we muſt e in that whole ſeries of events, which might have been

been foreſeen to enſue upon them, and which with
theſe actions would not have happened; whether th
events be the natural direct effects of the actions,
happened by the intervention of other agents, w
by theſe actions have been provoked or incited to ta
certain meaſures. For every good man will conſider
that may enſue upon any ſteps he takes; and will av
doing any thing contrary to the common utility,
which may without neceſſity give an occaſion or tem
tation to any publick detriment, either more or l
extenſive.

As to the events or effects of actions, this hold
that any publick advantage enſuing, tho' it had be
foreſeen, yet if it was not intended and deſired, ad
nothing to the virtue of the action, nor is it matt
of praiſe; as it ſhews no goodneſs of temper. But p
blick detriment which might have been foreſeen, th
it was not directly deſired, nor perhaps actually fore
ſeen, may add to the moral turpitude. Becauſe th
even a negligence and unconcernedneſs about the p
blick intereſt is of itſelf vitious, ſhewing either an e
tire want, or a great defect in goodneſs of temper.

5. But we muſt not pronounce every action to b
evil from which ſome evil conſequences were foreſee
to enſue; unleſs theſe evils were directly deſired f
themſelves. The conſequences of moſt external actio
are of a mixed nature, ſome good, ſome bad. There's
courſe of life which has not its own advantages and d
advantages; all which are indeed to come into co
putation. Theſe actions therefor alone are good,
account of their importance, whoſe good conſequenc
foreſee

reſeen overballance their evil conſequences; and hen the good could not have been obtained without eſe or equal evils: and thoſe actions are evil in this ſpect, where the evil conſequences overballance all e good; or where the good might have been obtain- without ſuch evils, or with a ſmaller degree of them. 6. But in the ſight of God and Conſcience theſe e- nts are imputed not as they actually happen, but ac- rding as there was a probable proſpect that they ght happen. For the moral good and evil conſiſts t in the external events, but in the affections and rpoſes of the ſoul. And hence two perſons may be ual in guilt, tho' one of them, reſtrained by acci- nt or the prudence of others, has done no damage, d the other has done a great deal. And he is equal- laudable who has made noble attempts, to the ut- ſt of his power, tho' unſucceſsfully, with thoſe to om all things have ſucceeded according to their hes.

VIII. AMONGST the circumſtances which affect h the will and the abilities of the agents, may be koned *cuſtom* and *habit:* which tho' they rather a- e than increaſe the pleaſure of particular enjoyments, increaſe the regret and uneaſineſs in the want of t we have been enured to, make us more inclined urſue like enjoyments, and give us greater facility readineſs in any courſe of action. As the acquiring uch habits was voluntary, ſo it ſtill remains in our er to abate their force or take them away altoge- by cautious abſtinence or frequent intermiſſion of actions and enjoyments. However therefor an ha-

bit of virtue, making each office leſs difficult, may ſeem to abate a little of the excellence of each particular office, yet it plainly adds to the beauty and excellence of the character: and on the other hand habits of vice, however they may a little abate the deformity of each particular vitious action, yet plainly ſhew the character to be the more deformed and odious.

Sometimes it may happen that one is juſtly praiſed on account of the good actions of other men, nay that even the deſirable effects of natural inanimate cauſes are imputed to him as honourable, when by ſome honourable actions of his own he has contributed to the events. And in like manner the damages or injuries immediately done by other men or inanimate cauſes are imputed as crimes, when one has occaſioned them by any action or omiſſion contrary to his duty.

CHA

CHAP. IV.

ncerning the NATURAL RIGHTS of INDIVIDUALS.

WE have already ſhewn that the ſeveral duties of life may be naturally explained by explaining e ſeveral *rights* belonging to men, and the corre-onding obligations, in all the ſeveral ſtates and rela-ns they ſtand in to each other. By a *ſtate* we under-nd "ſome permanent condition one is placed in, as it includes a ſeries of rights and obligations." Our te is either that of the *freedom in which nature pla-d us*; or an *adventitious* ſtate, introduced by ſome man acts or inſtitution.

The ſtate of *natural liberty*, is "that of thoſe who re ſubjected to no human power:" which plainly tained at firſt in the world, among perſons adult and empt from the parental power. This ſtate too muſt ways ſubſiſt among ſome perſons, at leaſt among the vereign Princes of independent ſtates, or among the tes themſelves, with reſpect to each other.

The character of any ſtate is to be taken from the hts and laws which are in force in it, and not from at men may do injuriouſly contrary to the laws. 'Tis in therefor from the preceeding account of our nature its laws, that the ſtate of nature is that of peace d good-will, of innocence and beneficence, and not violence, war, and rapine: as both the immediate

ſenſe of duty in our hearts, and the rational conſiderations of intereſt muſt ſuggeſt to us. *

For let us obſerve what's very obvious, that without ſociety with a good many of our fellows, their mutual aids, and an intercourſe of friendly offices, mankind could neither be brought to life or preſerved in it; much leſs could they obtain any tolerably convenient or pleaſant condition of life. 'Tis plain too that no one has ſuch ſtrength that he could promiſe to himſelf to conquer all ſuch as he may deſire to wrong or ſpoil, and all ſuch enemies as he may raiſe up againſt himſelf by an injurious courſe of life; ſince an honeſt indignation at wrongs will make many more enemies to him than thoſe he immediately injures: and there are few who won't find conſiderable ſtrength to avenge themſelves or their neighbours, when they have conceived a juſt indignation. And then men have it generally in their power much more certainly and effectually to make others uneaſy and miſerable, than to make others eaſy and happy. External proſperity requires a perfectly right ſtate of the body, and all its tender and delicate parts, many of which may be diſturbed and deſtroyed by very ſmall forces; it requires alſo a conſiderable variety of external things, which may be eaſily damaged, taken away, or deſtroyed. A juſt conſideration of this infirm, uncertain condition of mankind, that their proſperity may ſo eaſily be diſturbed, muſt engage every wiſe man rather to cultivate peace and friend-

* This ſuffices to overturn the fallacious reaſonings of *Hobs* upon the ſtate of nature as a ſtate of war of all againſt all.

endſhip with all, as far as poſſible, than to provoke
y by unneceſſary enmity or injury.

II. THE rights of men according as they immedi-
ely and principally regard either the benefit of ſome
dividual, or that of ſome *ſociety* or body of people,
of *mankind* in general as a great community, are
vided into *private*, *publick*, and *common to all*. The
ivate rights of individuals are pointed out by their
nſes and natural appetites, recommending and pur-
ing ſuch things as tend to their happineſs: and our
oral faculty or conſcience ſhews us, that each one
ould be allowed full liberty to procure what may be
his own innocent advantage or pleaſure, nay that
ſhould maintain and defend it to him.

To diſcover therefor theſe *private rights* we ſhould
attend to the ſeveral natural principles or appetites
men, * and then turn our views toward the general
ereſts of ſociety, and of all around them: that where
find no obſtruction to the happineſs of others, or
the common good, thence enſuing, we ſhould deem
the *right* of each individual to do, poſſeſs, or de-
nd and obtain from others, whatever may tend to
own innocent advantage or pleaſure.

Private rights are either *natural* or *adventitious*.
e former ſort, nature itſelf has given to each one,
hout any human grant or inſtitution. The adven-
ous depend upon ſome human deed or inſtitution.

III. THE private natural rights are either *perfect*
imperfect. Of the perfect kind theſe are the chief.

1. A

* See Grotius de Jure Belli, &c. I. c. 2. 1. See alſo Sect. 1.
the preceeding chapter.

1. A right to life, and to retain their bodies unmaimed. 2. A right to preſerve their chaſtity. 3. A right to an unblamiſhed character for common honeſty, ſo as not to be deemed unfit for human ſociety. 4. A right of liberty, or of acting according to one's own judgment and inclination within the bounds of the law of nature. 5. A right over life, ſo far that each one in any honourable ſervices to ſociety or his friends may expoſe himſelf not only to dangers, but to certain death, when ſuch publick good is in view as overballances the value of his life. This our conſcience, or moral ſenſe, and love of virtue will ſtrongly recommend to us in many caſes. 7. There's alſo a ſenſe deeply infixed by nature, of each one's *right of private judgment*, or of judging for himſelf in all matters of duty, eſpecially as to religion; for a baſe judgment or opinion cannot of itſelf be injurious to others: and 'tis plain no man can without guilt counteract his own conſcience; nor can there be any virtue in diſſimulation or hypocriſy, but generally there's great guilt in it. Our ſentiments therefor about religion and virtue cannot be matter of commerce or contract, ſo as to give others a right over them. Such commerce is no way requiſite for any good in ſociety; nor is it in ones power to judge or think as another ſhall command him. All engagements or contracts of this kind are null and void. Suppoſe one has judged amiſs and has falſe opinions: yet while he injures no man, he is uſing his own *external right*; that is, tho' he acts amiſs, yet much greater evils would enſue if any power were veſted in others to compel him by penalties or threatnings or torture

tures, either to a change of his ſentiments, or to a
feſſion of it.

Each one alſo has a natural right to the uſe of ſuch
ngs as nature intended to remain common to all;
t he ſhould have the ſame acceſs with others, by
like means, to acquire adventitious rights; and that
ſhould find equal treatment with his equals. Men
e likewiſe rights to marriage with ſuch as are wil-
to inter-marry with them, provided they be un-
no prior bonds of marriage, or hindred by any o-
t juſt impediment: nor can any third perſon or ſo-
y which has not acquired any juſt power over the
ties, pretend a right to obſtruct their deſigns of in-
marriage; or to hinder any who are not their ſub-
s from entering into any other innocent aſſociations
commerce of any kind for their own behoof.

The ſenſe of every one's heart, and the common na-
l principles, ſhew that each one has theſe perfect
ts; nor without maintaining them can there be a-
ocial life: ſo that they are alſo confirmed by con-
rations of common utility, and our more extenſive
ctions.

V. IN this reſpect all men are originally *equal*,
theſe natural rights equally belong to all, at leaſt
on as they come to the mature uſe of reaſon; and
are equally confirmed to all by the law of nature,
h requires that we ſhould conſult the intereſt of
individual as far as the common utility will allow;
maintain to the feeble and weak their ſmall acqui-
ns or advantages, as well as their greater acquiſiti-
or advantages to the ingenious and active. For 'tis
plain-

plainly for the common good, that no mortal endo
with reaſon and forethought ſhould without his ow
conſent, or crime, be ſubjected to the will of his fe
low, without regard to his own intereſt, except in ſom
rare caſes, that the intereſt of a ſociety may make it n
ceſſary. None of mankind are ſo ſtupid and thoughtl
leſs about their own intereſts, as not to count it next
death to have themſelves and all that's dear to them
ſubjected to another's pleaſure or caprice, and thus ex
poſed to the greateſt contumelies. Nature makes no
maſters, none ſlaves: and yet the wiſer and better ſo
of men have many imperfect rights ſuperior to the
of others, and ſuperior offices and ſervices of humani
ty are due to them.

But as nature has ſet no obvious or acknowledg
marks of ſuperior wiſdom and goodneſs upon any
mankind; and often weak men may have high no
ons of their own wiſdom; and the worſt of men m
make the greateſt ſhews of goodneſs, which their f
lows cannot diſcover to be hypocritical; 'tis plain t
no pretences of ſuperior wiſdom or goodneſs will j
tify a man in his aſſuming power over others with
their own conſent; this would be plainly everſive
the common intereſt, and the ſource of perpetual wa

V. To every imperfect right of individuals there
ſwers a like *obligation* or duty which our conſcie
plainly enjoins, and in ſome caſes moſt ſacredly. Th
are the chief imperfect rights: each one may ju
claim ſuch offices as are profitable to him, and no b
den or expence to the performer. Nay every innoc
per

ſon has a right to ſuch offices of others, as are of
advantage to him, and of ſmall burden or ex-
ce to the performers. This is particularly the caſe
nen under great calamities, needing the charitable
of others. Men of eminent characters, tho' under
alamity, have a right to ſome higher offices from o-
rs, as particularly to their friendly ſuffrages for their
antage or promotion. Each one whoſe vices have
made him infamous has a right to be admitted on
itable terms into any ſocieties civil or religious,
ch are inſtituted in his neighbourhood, for his more
venient ſubſiſtence, or his improvement in piety.
laſtly each one, who has not forfeited by ſome
ne, has a right to be treated on an equal footing of
nanity with his equals, and with others in propor-
to their merits.

VI. CONCERNING beneficence and liberality, theſe
eral maxims are evident, * that the importance of
benefit to the receiver, is proportioned jointly to
quantity of the benefit and his indigence: and that
efits are leſs burdenſome to the giver the ſmaller
r value is and the greater his wealth. Hence libe-
y may be exceedingly advantageous in many caſes
im that receives it, and yet of ſmall or no burden
he giver.

Beneficence, which is peculiarly becoming a good
, and eminently diſplays the goodneſs of his heart,
ht to be practiſed with theſe cautions; firſt, that it
't hurt the perſons it is employed about or the com-
ity. 2dly. That it be proportioned to our for-

T tunes,

* This is taken from *Cicero de Officiis* Lib. I. 14, 15, &c.

tunes, ſo as not to exhauſt its own fountain. 3dly, That it be proportioned to the merits or claims of others. Among theſe claims we regard, firſt, the moral characters of the objects, and next their kind affections towards us, and thirdly the ſocial intercourſes we have had with them, and laſtly the good offices we formerly received from them. None of theſe conſiderations are to be neglected, and leaſt of all the laſt one; ſince there is no obligation more ſacred than that of gratitude, nor more uſeful in life; nor is any vice more odious than ingratitude, or more hurtful in ſociety. When there for in certain caſes we cannot exerciſe all the benevolence we deſire, offices of gratitude ſhould take place of other offices of liberality.

CHAP. V.

Real Adventitious Rights *and* Property.

THE adventitious rights conſtituted by ſome human deed or inſtitution are either *real* or *personal*. The real terminate upon ſome certain definite objects: the perſonal terminate upon ſome perſon, not particularly reſpecting one part of his goods more than another.

The principal real right is *property*; the ſpring of which is this, Firſt the external ſenſes and appetites of man naturally lead to the uſe of external things: and the like ſenſes in brute animals (who have no ſuperior faculties which could controll theſe ſenſes and appetites) lead to the ſame: this ſufficiently ſhews that God has deſignedly created things inanimate for the uſe of animal life: now man is plainly the chief animal in this reſpect. Reflection confirms the ſame; ſince all theſe curious vegetable forms muſt ſoon periſh of their own accord, and therefor could be intended for no other uſe, worthy of the divine goodneſs, as that of ſupporting animal life agreeably, and chiefly human life.

II. There's indeed implanted in men a natural kindneſs and ſenſe of pity, extending even to the Brutes, which ſhould reſtrain them from any cruelty toward them which is not neceſſary to prevent ſome miſery of their own kind, toward whom we muſt ſtill have a much

higher compaſſion. But men muſt ſoon diſcern, they increaſe in numbers, that their lives muſt exceedingly toilſome and uneaſy unleſs they are aſ ted by the beaſts fitted for labour. They muſt alſo that ſuch beaſts of the gentler kinds and eaſily ta able, whoſe ſervices men need moſt, cannot be pre ved without the provident care of men; but muſt riſh by hunger, cold, or ſavage beaſts: nor could m unaſſiſted by work-beaſts, and over-burthened in ſ porting themſelves, employ any cares or labour in th defence. Reaſon therefor will ſhew, that theſe tr table creatures fitted for labour are committed to care and government of men, that being preſerved human care, they may make a compenſation by th labours. And thus a *community* or ſociety is plainly c ſtituted by nature, for the common intereſt both men and theſe more tractable animals, in which are to govern, and the brute animals to be ſubject.

Such tractable animals as are unfit for labours, make compenſation to men for their defence and p tection ſome other way, ſince their ſupport too requ much human labour; as they muſt have paſtures cle ed of wood, and be defended from ſavage creatu Men muſt be compenſated by their milk, wool, or h otherwiſe they could not afford them ſo much of t care and labour.

III. NAY, if upon the increaſe of mankind were ſo ſtraitened for food, that many muſt perih famine, unleſs they feed upon the fleſh of brute mals; Reaſon will ſuggeſt that theſe animals, ſla tered ſpeedily by men for food, periſh with leſs p

n they muſt feel in what is called their natural death; d were they excluded from human protection they ſt generally periſh earlier and in a worſe manner by nger, or winter-colds, or the fury of ſavage beaſts. here's nothing therefor of unjuſtice or cruelty, nay s rather prudence and mercy, that men ſhould take their own uſe in a gentler way, thoſe animals which herways would often fall a more miſerable prey to ns, wolves, bears, dogs, or vultures.

Don't we ſee that the weaker tribes of animals are ſtined by nature for the food of the ſtronger and more gacious? Were a like uſe of inferior animals denied mankind, far fewer of theſe animals fit for human e would either come into life or be preſerved in it; d the lives of theſe few would be more expoſed to nger and more miſerable. And then, the intereſt of e whole animal ſyſtem would require that thoſe en- ed with reaſon and reflection, and conſequently ca- ble of higher happineſs or miſery, ſhould be preſer- d and multiplied, even tho' it occaſioned a diminu- on of the numbers of inferior animals. Theſe conſi- rations abundantly evidence that *right* of mankind take the moſt copious uſe of inferior creatures, even oſe endued with life. And yet all uſeleſs cruelty to- ard the brute animals is highly blameable.

IV. THE grounds of *property* among men are of a fferent nature. Compleat unlimited *property* is "the right of taking the full uſe of any goods, and of alie- nating them as we pleaſe." Some degree of ingenu- y and ſtrength for occupying certain things, is grant- by nature to every one; mankind alſo naturally are prone

prone to action. Our desire of self-preservation and our tender affections excite us to occupy or acquire things necessary or useful for ourselves and those we love: every man of spirit naturally delights in such exertion of his natural powers, and applauds himself in the acquisition of what may be matter of liberality and friendliness. Our sense of right and wrong also shews, that it must be inhuman and ill-natured, for one who can otherways subsist by his own industry, to take by violence from another what he has acquired or improved by his innocent labours. 'Tis also obvious that the spontaneous fruits of the uncultivated earth are not sufficient to maintain the hundredth part of mankind; and that therefor it is by a general diligence and labour that they must be maintained. Whatever method therefor is necessary to encourage a general industry must also be necessary for the support of mankind; now without a property ensuing upon labour employed in occupying and cultivating things fitted for the support of life, neither our self-love, nor any of the tender affections, would excite men to industry; nay not even the most extensive benevolence toward all; since the common interest of all requires that all should be obliged by their own necessities to some sort of industry. Now no man would employ his labours unless he were assured of having the fruits of them at his own disposal: otherways, all the more active and diligent would be a perpetual prey, and a set of slaves, to the slothful and worthless.

Without thus ensuring to each one the fruits of his own labours with full power to dispose of what's beyond his

is own conſumption to ſuch as are deareſt to him, here can be no agreeable life, no univerſal diligence nd induſtry: but by ſuch enſurance labours become leaſant and honourable, friendſhips are cultivated, and n intercourſe of kind offices among the good: nay e- en the lazy and ſlothful are forced by their own indi- ence, to bear their ſhare of labour. Nor could we ope, in any plan of polity, to find ſuch a conſtant are and fidelity in magiſtrates, as would compell all mpartially to bear their proper ſhares of labour, and ake a diſtribution of the common acquiſition in juſt roportion to the indigence or merits of the ſeveral ci- izens, without any partial regards to their favourites. nd could even this be obtained in fact, yet the citi- ens could ſcarce have ſuch confidence in their magi- trates wiſdom and fidelity, as would make their dili- ence and labour ſo agreeable to them, as when they re themſelves to make the diſtribution of their profits, ccording to their own inclinations, among their friends r families.

CHAP.

CHAP. VI.

The METHODS *of* ACQUIRING PROPERTY.

PROPERTY is either *original* or *derived*. The original property ariſes from the firſt occupation of things formerly common. The derived is that which is transferred from the firſt Proprietors.

Whoſoever either from a deſire of preſerving himſelf, or profiting any who are dear to him, firſt occupies any of the ſpontaneous fruits of the earth, or things ready for human uſe on which no culture was employed, either by firſt diſcovering them with intention immediately to ſeize them, or by any act or labour of his catching or encloſing them ſo that they are more eaſily attainable and ſecured for human uſe, is deemed juſtly the proprietor for theſe reaſons; that if any other perſon, capable of ſubſiſting otherways, would wreſt from him what he had thus acquired, and defeat and diſappoint his labours, he would plainly act inhumanly, break off all friendly ſociety, and occaſion perpetual contention. What this perſon pretends to now, he may attempt anew every hour: and any other perſon may do the ſame with equal right: and thus all a man's pains in acquiring any thing may be defeated, and he be excluded from all enjoyment of any thing unleſs he perpetually defend his acquiſitions by violence.

'Tis trifling to imagine that property is any phyſical quality or bond between a man and certain goods, and thence to diſpute that there's no ſuch force or virtue

firſt eſpying, touching, ſtriking, or incloſing any-
ing, as to conſtitute a ſacred right of property; or
debate which of all theſe actions has the greateſt
rtue or force. For in all our inquiries into the grounds
cauſes of property, this is the point in queſtion,
what cauſes or circumſtances ſhew, that it is human
and equitable toward individuals, and requiſite alſo
to the maintainance of amicable ſociety, that a cer-
tain perſon ſhould be allowed the full uſe and diſpoſal
of certain goods; and all others excluded from it?"
d when theſe are diſcovered, our road is cleared to
d out the cauſes and rules about property.

II. Thus therefor we ſhould judge about the diffe-
nt methods of occupation: that 'tis inhuman and un-
ſt, without the moſt urgent neceſſity, to obſtruct the
nocent labours others have begun and perſiſt in, or by
y ſpeedier attempt of ours to intercept their natural
ofits. If therefor any perſon in ſearch for things re-
iſite for himſelf, firſt diſcovers them with intention
mediately to ſeize or purſue them; one who had
nployed no labour about them, nor was in ſearch for
em, would act injuſtly and inhumanly, if by his grea-
ſwiftneſs he firſt ſeized them for himſelf. If ſeve-
s at once were ſearching for ſuch things, and at once
cover them by ſight, they will be common among
em, even altho' one ſwifter than the reſt firſt touched
em; unleſs by civil laws or cuſtom ſuch points be
herways determined. If one firſt eſpies them, and an-
her conſcious of his deſign, but alſo in ſearch for ſuch
ngs for himſelf, firſt ſeizes them, the things will be
mmon to both, or in joint property: for there are

no more potent reaſons of humanity on one ſide than on the other. If one by his labour or ingenuity incloſes or enſnares any wild animals, or ſo wearies them out in the chaſe that they can now eaſily be taken; 'tis plain wrong for another to intercept them, tho' the former had neither ſeen nor touched them. If it is known to many that certain lands or goods ly common to be occupied by any one; and ſeverals, not conſcious of each others deſigns, at once are preparing to occupy them, and ſet about it: by the cuſtom which has obtained, he that firſt arrives at them is the proprietor. But, abſtracting from received cuſtoms and laws, ſuch things ſhould be common to all who without fraud or imprudent negligence employed their labours in occupying them, whether they came earlier or later; and ſhould either be held in common, or divided among them in proportion to expence and pains prudently employed by each of them for this purpoſe. Nay tho' each of them were aware of the deſigns of the reſt, 'tis right that each ſhould proceed and acquire a joint title with others. Nor ſhould thoſe who without any fault of their own came too late, or ſuch whoſe wiſh and vigorous attempts have been retarded by accident, be precluded from their ſhare.

In ſuch diſputable caſes we ſhould firſt inquire what reaſons of humanity give the preference to any one above the reſt; and this chiefly, "that the natural "fruits of no man's honourable or innocent labours "ſhould be intercepted; or any honeſt induſtrious at- "tempts defeated." If this plea belongs alike to all, the goods ſhould be deemed in joint property of all

f ſome accidents or circumſtances make the point ve-
y doubtful; and ſome ſorts of goods can neither be
eld in common, nor divided or ſold without great
oſs; we ſhould follow ſome implicite conventions of
en, appearing by the laws or cuſtoms which prevail;
nd aſſign the property to him who has on his ſide
ch circumſtances the regarding of which prevents
any inextricable diſputes and violent contentions.
lence it is that law and cuſtom ſo generally favour
e firſt ſeizer, the publick purchaſer, and the perſon
whom goods have been publickly delivered. And
is conduces to the common utility.

If different perſons intending to occupy agree that
e whole ſhould fall to him who firſt occupies; they
ght alſo to ſpecify the manner of occupation; other-
ays different methods may be deemed equally valid,
d conſtitute a joint property. Theſe rules ſeem the
oſt conducive to peace.

No doubt inextricable queſtions may ariſe about
at the ſeveral parties inſiſting on their utmoſt rights
y do, without being chargeable with injuſtice. But
h as ſincerely aim at acting the virtuous part, will
ways eaſily diſcern what equity and humanity re-
re, unleſs they are too much influenced by ſelfiſh-
ſs. Nor have we reaſon to complain, that, in theſe
d ſuch like caſes, nature has not preciſely enough
ed the boundaries, to let us ſee how very near we
y approach to fraud or injury, without actually in-
ring the charge of it; when we are ſo loudly ex-
ted to every thing honourable, liberal and benefi-
t.

III. BUT as man is naturally endued with provident forethought, we may not only juſtly occupy what's requiſite for preſent uſe, but may juſtly ſtore up for the future; unleſs others be in ſome extraordinary diſtreſs. There are alſo many things requiring a very long courſe of labour to cultivate them, which after they are cultivated yield almoſt a perpetual and copious uſe to mankind. Now that men may be invited to ſuch a long courſe of labour, 'tis abſolutely requiſite that a continual property be allowed them as the natural reſult and reward of ſuch laborious cultivation. This is the caſe in clearing woody grounds for tillage or paſture, preparing vineyards, oliveyards, gardens, orchards; in in rearing or breaking of beaſts for labour.

Property is deemed to begin as ſoon as one begins the culture of what before was unoccupied; and it is compleated when the cultivator has marked out ſuch a portion as he both can and intends to cultivate, by himſelf or ſuch as he can procure to aſſiſt him. As 'tis plainly injuſt to obſtruct any innocent labours intended, or to intercept their fruits.

But the abilities of the occupier with his aſſiſtants muſt ſet bounds to his right of occupation. One head of a family, by his firſt arriving with his domeſticks upon a vaſt iſland capable of ſupporting a thouſand families, muſt not pretend to property in the whole. He may acquire as much as there's any probability he can cultivate, but what is beyond this remains common. Nor can any ſtate, on account of its fleets firſt arriving on a vaſt continent, capable of holding ſeveral empires, and which its colonies can never ſufficiently occupy

cupy, claim to itſelf the dominion of the whole con-
ent. This ſtate may juſtly claim as much as it can
ſonably hope to cultivate by its colonies in any rea-
nable time: and may no doubt extend its bounds be-
nd what it can cultivate the firſt ten or twelve years;
t not beyond all probable hopes of its ever being
le to cultivate. The juſt reaſonable time to be al-
wed to the firſt occupiers, muſt be determined by
udent arbiters, who muſt regard, not only the cir-
mſtances of this ſtate, but of all others who may be
ncerned, according as they are more or leſs popu-
us, and either need new ſeats for their colonies, or
ve already ſufficient lands for their people. If many
ighbouring ſtates are too populous, they may juſtly
cupy the uncultivated parts of ſuch a new diſcovered
ntinent, leaving ſufficient room for the firſt occupiers;
d that without the leave of the firſt diſcoverers. Nor
n the firſt diſcoverers juſtly demand that theſe colo-
es ſent by other ſtates ſhould be ſubjected to their
pire. 'Tis enough if they agree to live amicably
ſide them as confederated ſtates. Nay as in a free de-
ocracy, 'tis often juſt to prevent ſuch immoderate
quiſitions of wealth by a few, as may be dangerous
the publick, even tho' theſe acquiſitions are a mak-
g without any private injuries: ſo neighbouring ſtates
y juſtly take early precautions, even by violence if
ceſſary, againſt ſuch acquiſitions of any one, as may
dangerous to the liberty and independency of all a-
nd them; when ſufficient ſecurity cannot be ob-
ned in a gentler way. Nothing can be more oppoſite
the general good of mankind than that the rights,

inde-

independency, and liberty of many neighbouring nations ſhould be expoſed to be trampled upon by the pride, luxury, ambition, or avarice of any nation.

'Tis plain however, that both individuals and ſocieties ſhould be allowed to acquire ſtores of certain goods far beyond all their own conſumption; ſince theſe ſtores may ſerve as matter of commerce and barter to obtain goods of other kinds they may need.

IV. FROM theſe principles about property it appears, that ſuch things as are inexhauſtible by any uſe are not matters of occupation or property, ſo that others could be excluded from them: for this further reaſon too, that ſuch things can ſcarce be improved by any human labour. If indeed for the more ſafe uſe of any of them labour or expences are requiſite; thoſe who wiſely employ labour or expence for this purpoſe may juſtly require that all others who uſe them ſhould in a juſt proportion contribute to make compenſation. The *air*, the *light*, *running water*, and *the ocean* are thus common to all, and cannot be appropriated: the ſame is the caſe of *ſtraits* or *gulphs*. And yet if any ſtate is at the expence to build fortified harbours or to clear certain ſeas from Pyrates for the behoof of all traders, they may juſtly inſiſt on ſuch taxes upon all traders who ſhare the benefit as may proportionally defray the ſaid expences, as far as they really are for the benefit of all traders, but no further. Now no man ſhould be excluded from any uſe of things thus deſtined for perpetual community, unleſs this uſe requires alſo ſome uſe of lands which are in property.

Theſe reaſonings alſo ſhew that all things were left

God to men in that community called *negative*, t *positive*. *Negative community* is "the ſtate of things expoſed to be appropriated by occupation." ſitive community is "the ſtate of things in the joint property of many:" which therefor no perſon can cupy or acquire without the conſent of the joint pro-etors. At firſt any one might juſtly have occupied at he wanted, without conſulting the reſt of man-d; nor need we have recourſe to any old conven-ns of all men, to explain the introduction of pro-rty.

V. THE goods called by the Civilians *res nullius*, ich, as they ſay, are not in property, and yet not ex-ed to occupation; * ſuch as temples, the fortifica-ns of cities, and burial-places, are truly the proper-either of larger ſocieties, or of families; altho' this perty is often ſo reſtricted by ſuperſtitious laws, that an be turned to no other uſe. 'Tis vain to imagine t any ſuch things afford uſe to the Deity, or that his reme right over all can be enlarged or diminiſhed any human deed.

The goods belonging to ſtates † are not in the pro-ty or patrimony of any individuals, nor come into ir commerce. But they are the property of the com-nity, which may transfer them as it pleaſes. Such publick theatres, high-ways, porticos, aqueducts, nios.

Things formerly occupied may return into the old ſtate

* Of theſe there are 3 claſſes, *ſacrae*, *ſanctae*, *religioſae*. Of ch follow three examples in order.

† *Res publicae*, or *res populi*.

ſtate of community if the proprietor throw them away or abandon his property; and this intention of abandoning may ſometimes ſufficiently appear by a long neglect of claiming it, when there's nothing to obſtruct his recovery. A long poſſeſſion in this caſe will give another a juſt title. Goods unwillingly loſt fall alſo to the fair poſſeſſor, when the proprietor cannot be found. There are alſo other reaſons why civil laws have introduced other ſorts of *preſcription* * for the common utility, and to prevent inextricable controverſies.

In the occupying of lands, a property is alſo conſtituted in ſuch things as cannot be uſed without ſome uſe of the ground; ſuch as lakes, and rivers as far as they flow within the lands in property; nay ſuch parts alſo of things otherwiſe fit for perpetual community as cannot be left open to promiſcuous uſe without endangering our property; ſuch as *bays* of the ſea running far into our lands, and parts of the ocean contiguous to the coaſt, from whence our poſſeſſions might be annoyed. But by occupying lands we acquire a property in ſuch wild creatures as can eaſily withdraw themſelves beyond our bounds, and are no way included or ſecured by our labour. And yet the proprietor may juſtly hinder others from treſpaſſing upon his ground for fouling, hunting, or fiſhing.

All natural, accidental, or artificial improvement or adventitious increaſe, are called acceſſions, ſuch as fruits of trees, the young of cattle, growth of timber, and artificial forms. † About which theſe general rules hold

* *Uſucapio.* † *Fructus, incrementa, alluviones, commixtiones, confuſiones, ſpecificationes.* The explication of all theſe may be found in any compend of civil law, or law dictionary.

old, 1. "All acceſſions of our goods which are not owing to any goods or labours of others, are alſo our property; unleſs ſome other perſon has acquired ſome right which limits our property."

2. When without the fraud or fault of any of the parties, the goods or labours of different perſons have concurred to make any *compound*, or have improved any goods, "theſe goods are in joint property of all thoſe whoſe goods and labours have thus concurred; and that in proportion to what each one has contributed." Such goods therefor are to be uſed by them in common, or by turns for times in the ſaid proportion, or to be thus divided among them, if they will admit diviſion without loſs.

3. But if they admit no ſuch common or alternate uſe, or diviſion, they to whom they are leaſt neceſſary ſhould quit their ſhares to the perſon who needs them moſt, for a reaſonable compenſation, to be eſtimated by a perſon of judgment and integrity.

4. When by the fraud or groſs fault of another, his goods or labours are intermixed with my goods, ſo that they are leſs fitted for my purpoſe; the perſons by whoſe groſs fault this has happened is bound to compenſate my loſs * or make good to me the value of my goods, nay † all the profit I could have made had they been left to me entire as they were; and let him keep to himſelf the goods he has made unfit for

* This *penſatio damni*, which is often due when there was no fraud in the caſe.

† *Penſare quod intereſt*, which always includes the former, and often extends much further.

my purpoſe. But if by the intermedling of others my goods are made more convenient for me, my right remains; and I can be obliged to compenſate to them no further than the value of the improvement to my purpoſes, or as far as I am enriched.

Full property originally contains theſe ſeveral rights; firſt, that of retaining poſſeſſion, 2. and next, that of taking all manner of uſe. 3. that alſo of excluding others from any uſe; 4. and laſtly, that of transferring to others as the proprietor pleaſes, either in whole or in part, abſolutely, or under any lawful condition or upon any event or contingency, and of granting any particular lawful uſe to others. But property is frequently limited by civil laws, and frequently by the deeds of ſome former proprietors.

CHAP.

CHAP. VII.

Of DERIVED PROPERTY.

THE derived rights are either *real* or *perſonal*. The materials whence all real rights ariſe is our property. Perſonal rights are founded on our natural liberty, or right of acting as we chooſe, and of managing our own affairs. When any part of theſe original rights is transferred to another, then a perſonal right is conſtituted.

To apprehend this diſtinction, which has place in the law of nature, as well as in civil law, 'tis to be obſerved, that the common intereſt of all conſtantly requires an intercourſe of offices, and the joint labours of many: and that when mankind grow numerous, all neceſſaries and conveniences will be much better ſupplied to all, when each one chooſes an art to himſelf, by practice acquires dexterity in it, and thus provides himſelf great plenty of ſuch goods as that art produces, to be exchanged in commerce for the goods produced in like manner by other artiſans; than if each one by turns practiſed every neceſſary art, without ever acquiring dexterity in any of them.

'Tis plain too, that when men were multiplied conſiderably, all lands of eaſy culture muſt ſoon have been occupied, ſo that there would none remain in common; and that many could find none to occupy for their ſupport, ſuch perſons therefor would have no other fund

than their own bodily ſtrength or ingenuity, that by their common or artificial labours they might procure neceſſaries for themſelves: the more opulent too, for their own eaſe, would more frequently need the labours of the indigent, and could not with any conſcience expect them gratuitouſly. There muſt therefor be a continual courſe of contracts among men, both for the transferring of property or real rights; and the conſtituting claims to certain ſervices, and to certain quantities or values, to be paid in conſideration of theſe ſervices; which are perſonal rights.

Now it would often happen that a proprietor without entirely transferring his property in lands or other goods, would yet conſent ſo to ſubject them to certain claims of his creditor, that unleſs the debt be diſcharged at the time agreed, the creditor by the poſſeſſion or ſale of ſuch lands or goods might ſecure himſelf: by a tranſaction of this kind a *real right* is conſtituted. Sometimes the creditor would have ſuch confidence in the wealth and integrity of his debtor, that he would demand no ſuch *real* ſecurity as a pledge or mortgage, but accept of a perſonal obligation, which had no more peculiar reſpect to any one piece of goods or property of the debtor than another. In like manner; from any damage done there would ariſe only a *perſonal right*. But further, when it was found abſolutely neceſſary to maintain the faith of commerce, certain publick and notour forms have been received, to make full tranſlation of property: which muſt have always been deemed ſo valid and ſacred, that no prior latent contracts with others could defeat them. Were not

ſuch

ch *forms* thus agreed upon, no man would buy any ing; ſince he could have no ſecurity that it would ot be wreſted from him by a third perſon upon ſome ior latent contract. A good man no doubt will ſa-edly regard all his contracts and obligations perſo-l or real; and avoid what may defeat any right of nother of any kind. But there's ſuch a neceſſity of aintaining the faith of publick commerce, * that all ontracts entered into publickly and without fraud, in rder to transfer real rights, muſt take place of latent ontracts and perſonal rights, tho' prior in time.

II. DERIVED real rights are either certain parts of e right of property, ſubſiſting ſeparately from the eſt; or compleat property transferred. The parts which ften ſubſiſt ſeparately are four, the *rights of poſſeſſing* hat one obtains without force or fraud; the *rights f heirs in entail*; the rights of the *pledge* or *mortgage*; nd *ſervitudes*.

He that poſſeſſes the goods of another without fraud r violence, either knows that they are the property f others; or upon probable ground believes them to e his own. And this latter is the *bonae fidei poſſeſſor*, r the preſumptive proprietor.

Whoſoever by fraud or violence poſſeſſes the goods e knows belong to others, has no manner of right. he proprietor, or any other honeſt man for the pro-prietor's

* Whatever may be determined by human laws or courts, ere is no natural foundation in juſtice for preferring the edge or mortgage as to any loans made after he knew the ebts due to others, and ſuſpected that they were in danger f loſing them.

prietor's behoof, has a right to demand and take them from him by force, to reſtore them to the proprietor. But when we get poſſeſſion of any goods without fraud or violence, which we know belong to others, (as when one finds goods loſt at land, or wrecks at ſea), theſe we may detain till they are claimed by the proprietor, or ſome perſon commiſſioned by him; and if no ſuch perſon ever appears, the goods fall to the poſſeſſor. But in ſuch caſes the poſſeſſor is bound to give publick notice that he has found ſuch goods, and is ready to reſtore them to the owner: to conceal them would be equal to theft. But he may juſtly inſiſt to have all his prudent charges in the keeping or advertiſing them refunded to him.

The obligations on the preſumptive proprietor are, firſt to reſtore to the owner the goods, with all their unconſumed fruits, profits and increaſe.

2. If the goods or their increaſe be conſumed, to refund to the value of what he is inriched by the uſe of them, in ſparing ſo much of his own property; or as much as it can be deemed valuable to him to have lived with more elegance or pleaſure, conſidering his circumſtances. For 'tis a juſt maxim, that "no perſon ſhould derive to himſelf any pleaſure or advantage at the expence of another without his conſent."

3. If both the goods and their increaſe have periſhed by accident, the preſumptive proprietor who holds no profit by them is not obliged to make good the value: nor is he accountable for ſuch profits as he neglected to take: for he uſed theſe goods believing them to be his own, even as he would have uſed his

s own. But one ceaſes to be deemed preſumptive pro-ietor as ſoon as he has any probable intimation that e goods are not his own, by any plauſible claim put by another: and whatever is culpably loſt, ſquan-red or groſly neglected thereafter he is bound to ake good.

4. When the preſumptive proprietor reſtores to the e owner any goods he bought or obtained for valu-le conſideration; he may juſtly inſiſt to have the ice or conſideration reſtored to him by his *author*, the perſon from whom he obtained them.

5. Where this perſon is bankrupt, or can't be found, e cauſe of the preſumptive proprietor is as favourable that of the true one. Nor does the true proprietor d by any title more ſacred than by purchaſe, ſuc-ſion, teſtament, or donation, which are the ordinary ndations of the true property, as well as of the pre-mptive. And ſince a certain loſs muſt fall upon one or th parties, nor is there any reaſon of publick intereſt ading for one more than the other; the loſs ſhould equally divided between them, unleſs ſome reaſons humanity recommend a different deciſion; eſpecial-ince it often happens, that the preſumptive propri-has done a moſt valuable ſervice to the proprietor, purchaſing his goods, which otherways might have n loſt to him for ever. If one pleads the general ad-ntage of making purchaſers look well to their titles, t they may not purchaſe goods injuriouſly obtain-: 'tis on the other hand an equal publick advantage t the proprietors be made more vigilant about their goods,

goods, leaſt when they are loſt or ſtollen through their negligence, fair purchaſers may be involved in loſs by their means.

6. Where the preſumptive property has been obtained gratuitouſly, and the goods are claimed by the true owner, they muſt be reſtored. Nor has the perſon who got them gratuitouſly in this caſe any recourſe for their value.

III. CONCERNING the right of heirs in entail, theſe points ſeem clear; that one who has full property may transfer his goods to any perſon upon any contingency, or under any lawful conditions. The right therefor of perſons in remainder is as ſacred as any right founded in donation: nor is it leſs inhuman to hinder the proprietor to convey his property to a perſon dear to him, upon any contingency, than to hinder a friendly immediate donation, or conveyance to his firſt heir upon the event of his death. It is no leſs inhuman to defeat the hopes of the ſecond or third in remainder without any demerit of theirs, than to intercept other donations to friends. And yet there may be prudent reaſons why civil laws ſhould prevent making ſuch perpetual entails as may be very inconvenient to the ſeveral ſucceſſors in their turns, or pernicious to the community; even as courts of equity often make void prodigal and inconſiderate donations.

IV. FOR further ſecurity to creditors pledges and mortgages were introduced, or goods ſo ſubjected to the power of the creditor * that, if the debt is not discharged

* This clauſe is called *lex commiſſoria*, or the clauſe of entire forfeiture.

charged at the time prefixed, the goods ſhould become the property of the creditor. In this there would be no iniquity, if the creditor in ſuch caſes were alſo obliged to reſtore to the debtor whatever ſurplus of value there was, upon a juſt eſtimation of the goods, beyond the ſum of the debt. * Where ſuch real ſecurity is given, it takes place of all prior debts, which have not been publickly intimated before the mortgage. Nor can prior creditors juſtly complain: let them blame themſelves that they inſiſted not on higher ſecurity, and thus are poſtponed to creditors who uſing more caution inſiſted on higher, and who had no notice of their prior claims.

V. THE laſt claſs of real rights are *ſervitudes* that is "rights to ſome ſmall uſe of the property of others;" which generally ariſe from contracts; or from this that in the transferring of property they have been reſerved by the granter; or ſometimes from civil laws. All ſervitudes are real rights, terminating upon ſome definite tenement. And yet with regard to the *ſubject* they belong to, and not the *object* they terminate upon, they are divided into *real* and *perſonal*. The *perſonal* are conſtituted in favour of ſome perſon, and expire along with him: the real are conſtituted for the advantage of ſome tenement, and belong to whatever perſon poſ-

* Here no mention is made of the difference between the *pignus*, and *hypotheca* as in the original. Our words *pledge* and *mortgage* don't fully expreſs it. *Pignus* is like a mortgage with poſſeſſion, and *hypotheca*, one without poſſeſſion, whether of lands or moveables.

ſeſſes it. † An inſtance of the former is tenantry for life impeachable for waſte. The real ſervitudes are either upon *town-tenements*, or *farms* in the country. Inſtances of the former are the rights of putting beams or rafters into a neighbouring gable or wall; a right that our windows ſhall not be obſtructed by any building in the adjacent tenement; and ſuch like. The rural ſervitudes, are chiefly that of roads for paſſage of carriages, or of little channels for rivulets, brought through a neighbouring farm.

† The ſeveral ſervitudes mentioned in the original could not have been explained to an Engliſh reader without a very tedious and uſeleſs diſcuſſion, as the Roman ſervitudes differed much from ours. They are found in every compend of the civil law.

CHAP.

CHAP. VIII.

The METHODS *of* TRANSFERRING PROPERTY, CONTRACTS, SUCCESSION, TESTAMENTS.

PROPERTY may be transferred, either by the *voluntary deed* of the former proprietor, or without any deed of his, by *appointment of law* either natural or civil: and in each of theſe ways it is transferred either *among the living*, or upon *the event of death*.

By the deed of the proprietor among the living, property is transferred either *gratuitouſly* in donations; or for *valuable conſideration* in commerce, wherein a price, or goods of equal value, or rights, are transferred in conſideration of it. This power of alienating, we formerly ſhewed, is included in the right of property. We treat of contracts and commerce hereafter.

II. By the deed of the proprietor upon the event of death property is transferred in *teſtaments* or *laſt-wills*. According to the law of nature "any declaration of a man's will how his goods ſhould be diſpoſed of upon the event of his death," is a valid teſtament; provided there be ſufficient documents or proof made of this will. For that of which no proof can be made muſt be deemed as if it were not.

The nature of property itſelf, and the known intention of mankind in their acquiring goods beyond their own uſe, that they may contribute to the happineſs of

ſuch as are deareſt to them, ſhew that the wills of the deceaſed which contain nothing iniquitous ſhould be obſerved. 'Tis cruel and inhuman, and deſtructive to induſtry to hinder men to transfer as they incline what they have acquired by their innocent labours, and that upon any contingency. It would be diſagreeable and often highly inconvenient to oblige men while they are living, and perhaps in good health, to make irrevocable conveyances of their property to their kinſmen: It would alſo be cruel to deprive the dying of this ſatisfaction that their acquiſitions ſhould be of advantage to their friends: it would be inhuman toward the ſurviving friends, the heirs or legatees, to fruſtrate or intercept the kindneſſes intended them by the deceaſed. Without regard therefor to the metaphyſical ſubtilities of ſuch as object, that *'tis abſurd men ſhould then be deemed to will and act when they become incapable of will or action*, we conclude that the law of nature grants this power of diſpoſing by will.

But as many obligations both of a perfect kind, and ſuch as are pretty near of equal ſanctity, muſt be diſcharged out of our goods, all juſt debts muſt be paid, our children, or indigent parents maintained: wills are therefor juſtly made void as far as they interfere with theſe obligations. Nay tho' there were no ſurviving parents or children, 'tis reaſonable that other near indigent kinſmen, who have given no juſt cauſe for their being thus neglected, ſhould be admitted to certain ſhares of the fortune of the deceaſed, even contrary to an inhuman capricious will. The law of nature too as well as civil laws invalidate any thing in wills

which

which may be detrimental to the community; and enjoin that wills be made with ſuch ſolemn forms and circumſtances as may be neceſſary to prevent forgeries: and, where theſe forms are omitted without neceſſity, ſeems the will to be void.

III. PROPERTY is transferred *among the living*, even againſt the will of the proprietor, by appointment of law, for the performance of whatever the proprietor was ſtrictly bound to perform, and yet declined. This branch will be more fully explained when we treat of contracts, and the rights ariſing from damage done either injuriouſly or without a crime, and the manner of proſecuting our juſt rights *.

Upon *the event of death*, without any deed of the proprietor, property is transferred *by the law* in the *ſucceſſions to the inteſtate*. The natural grounds of which are theſe: 'tis well known that the intention of almoſt all mens acquiſitions beyond their own uſe, is to proſit thoſe whom they love. This univerſally known intention of mankind is a continual declaration of their will: now according to the general temper of mankind, our children and near kinſmen are deareſt to us, and 'tis for them we univerſally endeavour to obtain not only the neceſſary ſupports, but even the pleaſures and ornaments of life. Nay God and nature, by making theſe tyes of blood bonds alſo of love and goodwill, ſeems to have given our children and kinſmen if not a perfect claim or right, yet at leaſt one very near to perfect, to obtain not only to the neceſſary ſupports, but even the conveniencies of life from their wealthy parents

* Chap. xv. of this book.

parents or kinſmen, unleſs they have forfeited it by their vitious behaviour. 'Tis therefor cruel to deprive men of this general conſolation upon the event of ſudden death, againſt which no man can take certain precautions, that the fruits of their induſtry ſhall fall to their children or kinſmen. And 'tis plainly cruel and unjuſt to defeat theſe rights of children and kinſmen which God and nature have given them.

Nay where the cuſtom has prevailed of admitting children and kinſmen to ſucceed; 'tis juſtly preſumed that this was the very intention of the deceaſed. And this right of ſucceſſion has the ſame foundation in juſtice with teſtaments.

Where there are no children or very near relations, like arguments of humanity would plead for friends, if it were known that any ſuch had been ſingularly dear to the deceaſed. But where by cuſtom or law the remoteſt kinſmen are preferred to friends; 'tis preſumable that this was the intention of the perſon deceaſed, unleſs proof can be made of his hatred to his kinſmen. The cauſes of this law or cuſtom prevailing every where, are theſe; that nature almoſt univerſally endears our kinſmen to us; that 'tis eaſy to compute the degrees of kindred, but impoſſible thoſe of friendſhip; and that we ſo frequently ſee that men who ſeemed moſt to delight in the company of friends and not of kinſmen, yet when they declare their own will about their goods, they leave them almoſt always to kinſmen.

Kinſmen ſhould ſucceed according to their proximity, thoſe of equal degrees equally. Firſt our chil-

dre

ren, among whom grandchildren by a child deceaſed ould be admitted, at leaſt to the ſhare their parents ould have had: nay ſometimes humanity would ap-int them a greater ſhare, where many ſuch orphans e in ſtraits. Along with children ſome ſhare is due indigent parents, at leaſt as to the neceſſaries of life; y brothers in diſtreſs ſhould have ſome ſhare. When ere are no children or parents ſurviving, brothers and ers, with the children of any ſuch deceaſed, at leaſt their parents ſhare, ſhould be admitted: and when ne ſuch ſurvive, couſin-germans by brothers or ſiſ-s, and their poſterity.

IV. THE conſtitution and civil laws and cuſtoms of ne ſtates may require that a far larger ſhare of the ods of perſons deceaſed ſhould go to ſons or other rs male, than what goes to daughters, or to females the ſame degrees with the males, and to the eldeſt of les beyond what goes to the younger. And yet there ſcarce be any reaſon for that vaſt difference made theſe accounts in many nations. The law of nature rce makes any difference among perſons in equal grees on account of ſex or ſeniority: nor does it eſta-h the lineal ſucceſſion, where ſome one muſt always t were ſuſtain the perſon of the deceaſed and ſucceed his real eſtate. This ſucceſſion is wholly a * human trivance, and often abſurd and iniquitous. In the degree all other differences yield to that of the ſex. in the ſecond and remoter degrees, both the pre-eminence

* This lineal ſucceſſion to private fortunes has manifeſtly introduced by the Feudal laws of the *Lombards*.

eminence of ſex in the ſucceſſors themſelves and ſeniority, give place to the preeminence of ſex and the ſeniority of the deceaſed parent, ſo that an infant-grand-daughter or great grand-daughter by an eldeſt ſon deceaſed takes place of a grandſon of mature years and wiſdom by a ſecond ſon, nay of the ſecond ſon himſelf. And the like happens among nephews and nieces and their children, in ſucceeding to the fortunes of their uncles: and in the ſucceſſions of couſins-germain or more remote.

CHAP

CHAP. IX.

Of CONTRACTS *in* GENERAL.

SINCE a perpetual commerce and mutual aids are abſolutely neceſſary for the ſubſiſtence of mankind, not to ſpeak of the conveniencies of life, God has indued men not only with reaſon but the powers of ſpeech; by which we can make known to others our ſentiments, deſires, affections, deſigns, and purpoſes. For the right uſe of this faculty we have alſo a ſublime ſenſe implanted, naturally ſtrengthened by our keen deſires of knowledge, by which we naturally approve veracity, ſincerity, and fidelity; and hate falſhood, diſſimulation, and deceit. Veracity and faith in our engagements, beſide their own immediate beauty thus approved, recommend themſelves to the approbation and choice of every wiſe and honeſt man by their manifeſt neceſſity for the common intereſt and ſafety; as lies and falſhood are alſo manifeſtly deſtructive in ſociety.

In an intercourſe of ſervices, in commerce, and in joint labour, our ſentiments, inclinations and deſigns muſt be mutually made known: and "when we affirm to others that we will pay or perform any thing, with that profeſſed view, that another ſhall pay or perform ſomething on his part" then we are ſaid to promiſe or contract. A covenant or contract is the conſent of two or more to certain terms, with a view to conſtitute or aboliſh ſome obligation." Nor does

the law of nature diſtinguiſh between * *contracts* and *pactions*.

Contracts are of abſolute neceſſity in life, and ſo is the maintaining of faith in them. The moſt wealthy muſt need the goods and labours of the poor, nor ought they to expect them gratuitouſly. There muſt be conferences and bargains about them, that the parties may agree about their mutual performances. Suppoſe all men as juſt and good as one could deſire, nay ready for all kind offices: yet without contracts no man can depend upon the aſſiſtance of others. For when I need the aid of a neighbour, he may be engaged in ſome more important ſervices to a third perſon, or in ſome ſervices to thoſe who can give him a recompenſe more requiſite in his affairs.

The ſacred obligation of faith in contracts appears not only from our immediate ſenſe of its beauty, and of the deformity of the contrary, but from the miſchiefs which muſt enſue upon violating it. 'Tis plainly more contrary to the ſocial nature, and frequently a baſer injury, to break our faith, than in other equal circumſtances to have omitted or declined a duty we owe another way. By violating our faith we may quite defeat the deſigns of ſuch as truſted to our integrity, and might have otherwiſe obtained the aid they wanted: and, from the neceſſity of commerce, it muſt appear that the rights founded on contracts are of the *perfect* ſort, to be purſued even by force. The perfidious for his part breaks of all ſocial commerce among men.

II. An

* The difference between *contractus* and *pactum* is found in any Civil-law-dictionary.

II. AND further; tho' a good man would not take any advantage of another's weakneſs or ignorance in his dealings, nay would frequently free another from a bargain which proved highly inconvenient to him, and not very neceſſary to himſelf, provided any loſs he ſuſtained were made good; yet there's ſuch a manifeſt neceſſity of maintaining faith in commerce, and of excluding the cavils which might be made from ſome ſmaller inconveniences to one or other of the parties, that in the proper matters of commerce, the adminiſtration of which the law of nature commits to human prudence, our covenants tho' raſhly made muſt be valid, and conſtitute at leaſt ſuch external rights to others, as muſt for the common utility be maintained, tho' perhaps a good man would not inſiſt on them. But if the perſon who claims them perſiſts in his claim to the utmoſt, we can have no right to oppoſe him violently; but ought to obſerve our covenants; according to an old rule, that "what ought not to have "been done, yet in many caſes when done is obligatory."

The proper *matters of commerce* are our labours and goods, or in general, all ſuch things as muſt be frequently interchanged among men for the intereſt of ſociety; and by a commerce in which we neither directly violate that pious reverence due to God, nor the perfect right of another; and about which no ſpecial law of God deprives us of the right of tranſacting.

III. WE muſt diſtinguiſh from contracts *the bare declarations of our future intentions*; which neither tranſfer any right to others nor bind us to continue in

the ſame purpoſe. What come nearer to contracts are theſe *imperfect promiſes*, in which from cuſtom 'tis underſtood, that we convey no right to others to oblige us to performance, but only bind ourſelves in honour and veracity; and that too only upon condition, that the perſon to whom we make ſuch promiſes ſo behave as to be worthy of the favour deſigned him, and don't by his bad conduct give us juſt cauſe of altering our intentions: and in this point the promiſer reſerves to himſelf the right of judging; nor does he bring himſelf under an higher perfect obligation, than that of compenſating any loſs the other may ſuſtain, even tho' he ſhould without cauſe alter his purpoſe.

IV. THE circumſtances to be conſidered in explaining the nature of contracts and the juſt exceptions againſt their obligation, relate either to the *underſtanding*, or the *will*, the two internal principles of action, or the *matter* about which they are made.

As to the *underſtanding*; the common intereſt, as well as humanity, requires, that no perſon ſhould ſuſtain any damage on account of any ignorance in his own affairs which is no way faulty. And hence the contracts of minors unacquainted with the nature of the buſineſs, are not obligatory; nor of thoſe ſeized with madneſs or dotage, nor of ideots, nor even of men quite diſordered by drunkenneſs ſo as to have loſt the uſe of their reaſon. And altho' there may be a great crime in drunkenneſs which may juſtly be puniſhed; yet this is no reaſon why the fraudulent and covetous ſhould be allowed to make a prey of them. The caſe is very different as to crimes or injuries done by men intoxicated.

For

For tho' we are not bound with reſpect to others to preſerve ourſelves always in a condition fit for tranſacting of buſineſs, yet we are bound to preſerve ourſelves innocent continually, and to avoid doing injuries. If one of the parties was not aware that the other was intoxicated; this later will be bound to make good any loſs the other ſuſtained by his nonperformance of the contract. But there are many degrees of intoxication, ſome of which tho' they may abate our caution and prudence, yet don't deprive us of the neceſſary uſe of reaſon. If all theſe degrees alſo made contracts void, there could be no ſure tranſactions among men. Queſtions concerning theſe degrees, muſt be decided in the ſeveral caſes by the judgment of prudent arbitrators.

The ſame might be ſaid concerning the imprudence of youth, previous to civil laws: ſince the degree of prudence requiſite for commerce appears in different perſons at very different ages. That therefor commerce may be aſcertained, and ſuch endleſs evaſions prevented, 'tis abſolutely neceſſary that in every ſociety ſome certain age be agreed upon, to which whoſoever attains muſt be deemed his own maſter, and capable of managing his own buſineſs. This age muſt be determined with this view, that as few as poſſible of ripe judgment be excluded from the adminiſtration of their own affairs, and yet as few as poſſible admitted before the maturity of judgment. The medium fixed by the Roman law is as good as any; that minors before fourteen years of age in males, and twelve in females, ſhould have no management of their affairs, but be under the natural guardianſhip of their parents; or, if they

they are dead, under that of the guardians their parents or the law has appointed: and after these years till twenty-one, or as it was in their earlier times, till twenty-five, they should be so subjected to curators that no deed of theirs intended to bind themselves or their fortunes, should be deemed valid without the consent of their curators.

'Tis on one hand unjust that minors should sustain losses in contracts; but 'tis on the other hand unjust that they should be enriched at the expence of others. If therefor any contract has been made with them, and something paid or performed by the other party, if it is not detrimental to them to confirm the contract, they ought to do it when they come to maturity: if it be found detrimental, they should restore or compensate what was received on that account, or as far as they were profited. Minors before the legal years often have sufficient judgment in certain matters; and when it is so, nor was there any thing fraudulent or faulty on the the other side, they are bound before God and their own consciences by their contracts, even as the adult.

When parents or curators are at hand, one can scarce without a gross fault enter into any important contract with a minor without their consent. As generally the passions of the young are impetuous and incautious; they are rash in promising, keen in their desires, improvident, liberal, full of hopes and void of all suspicion.

V. He who was engaged into a contract by any mistake or error about the very nature of the object of goods, or these qualities which are chiefly regarded in them

hem, is not bound: and whatever he has paid on that ccount ſhould be reſtored. But no man has this plea ho was engaged only by a ſecret expectation of ſuch ualities as he did not openly inſiſt on, or of ſuch as are ot commonly expected in ſuch goods. If the miſtake as about ſome different matter or event, which mo-ed him to the bargain; when the miſtake is diſcove-ed, humanity may require it of the other party to ſet im free, eſpecially if he is ready to compenſate any amage occaſioned by his miſtake. But this is not a mat-r of perfect obligation, unleſs the perſon in the miſ-ake made it an expreſs condition of the bargain.

The nature of the goods, and the qualitys upon which heir value depends, and the defects of ſuch qualitys, re, as they ſpeak, *eſſential points* in contracts. Where ne of the parties has been in a miſtake about them he not bound. Where the miſtake has been only about e current price; the perſon deceived and ſuſtaining e loſs has a perfect right to have the price reduced equality; which if the other party refuſes the bar-ain may be made void.

Whoever by any fault or raſhneſs of his cauſed the iſtake of the other party, or fell into a miſtake him-lf, is bound to compenſate any loſs the other there-y ſuſtains: but he that dealt fraudulently, is bound rther to make good any profit the other could have ade, had the bargain been executed with integrity *.

* The Civilians thus diſtinguiſh between *penſare damnum*, nd *præſtare quod intereſt*: obliging thoſe who wrong others hrough negligence or inadvertence to the former only, but caſe of fraud or more groſs negligence obliging always to he later.

Any

Any promiſes or contracts obtained from us by th fraud of the perſon with whom we contracted, are plain ly void; becauſe through his fraud we wanted the du knowledge requiſite in contracting, and he is bound t compenſate our damage occaſioned by his fraud, whic is eaſieſt done by making the bargain void.

Where the fraud of a third perſon has moved us t a contract without any colluſion with the other party the bargain is valid. But we have a right of demand ing compenſation of any loſs from that third perſo who deceived us.

VI. WE always deem that all ſuch voluntarily con ſent who voluntarily uſe ſuch ſigns of conſenting as b cuſtom import it. Nor could there be any faith main tained, if we allowed exceptions from a ſecret diſſen contrary to our expreſſions.

Words and writing are the fitteſt methods of decla ring conſent: but any other ſign agreed upon by th parties, or received by common cuſtom is ſufficien Nay ſome actions in certain circumſtances are juſtl deemed to declare conſent, when they are ſuch as n man of common ſenſe or equity would do, unleſs h alſo conſented to certain terms. From ſuch actio therefor we juſtly conclude a perſon's conſent, unle he timouſly premoniſh all concerned of the contrar Covenants or contracts founded on conſent thus decl red are called *tacit:* which are diſtinguiſhed from a other ſet of obligations, to be preſently explained, ſa to ariſe * *after the manner of contracts*, by this, th in tacit contracts the obligation is prevented by an e pre

* Chap. xiv.

preſs declaration to the contrary; but not in the others.

Beſide the principal expreſſed articles in contracts, there are frequently others plainly underſtood as adjected from the very nature of the tranſaction, or from the prevailing cuſtom among all who are engaged in ſuch buſineſs.

The conſent of both parties, of the receiver as well as the giver, is neceſſary in all tranſlation either of property or any other rights, whether gratuitous or not. For from one's intention of beſtowing any thing on a friend, we cannot conclude any deſign of throwing it away in caſe he don't accept, or of forcing it upon him. But a lower ſort of evidence will ſerve to prove a conſent to accept any thing valuable; and we may always preſume upon it, if the thing was previouſly requeſted; provided the offer anſwer the requeſt.

But as in full property there's included a right of diſpoſing under any lawful conditions, or upon any contingency; and of giving in truſt to a friend, till ſome future event happens: inheritances and legacies may thus be left with truſtees, till it be found whether the heirs deſigned, or the legatees are willing to accept. Many goods may thus be kept in favours of perſons not yet exiſting; as it is unjuſt to hinder the proprietor to appoint his goods thus to be reſerved for the offspring of his friends if they ſhall happen to have any: and 'tis injurious toward ſuch offspring to have defeated or intercepted any benefits deſtined for them by their deceaſed parents, kinſmen, or friends. And yet no heir or legatee can be forced to be proprietor of any thing thus left to him without his own conſent. Mankind

however, and each one as he has opportunity, when no ſpecial truſtee is appointed, ought to take this care of infants, or perſons unborn, to preſerve ſuch inheritances or legacies for their behoof, till they can accept them.

VII. As the obligation of contracts plainly depends on the conſent of the parties, and without it is void; ſo when it was only given under certain conditions, if they don't exiſt, there's no obligation. But ſuch conditions muſt be known as ſuch on both ſides, otherways there could be no faith in our tranſactions. Theſe conditions therefor alone are of ſuch force as that their non-exiſtence makes the tranſaction void, which were either expreſly made conditions by one or other of the parties, or which the perſon who inſiſts on them did in conſcience believe the other party underſtood as adjected from the nature of the affair; and not every one which one of the parties might ſecretly expect would exiſt, tho' the like is not ordinarily expected in ſuch tranſactions. Whatever indeed one party has undertaken for to the other, or poſitively affirmed to him to engage him to the bargain, *that* the other party may juſtly be deemed to have made a condition of his conſenting.

In the known diviſion of contracts into *abſolute* and *conditional*, by a condition is underſtood "ſome event "yet uncertain to one or both the parties, diſtinct from "the preſtations covenanted, upon the exiſtence of "which the validity of the contract depends." A condition known to be naturally impoſſible, ſhews that there's no engagement. We ſhall preſently ſpeak of another

another ſort of impoſſibility from the prohibition of law, or moral turpitude. But a vitious action of any third perſon, to be done without any aid of the parties contracting, may be a juſt condition; provided nothing in the contract give any invitation to ſuch actions.

Conditions in the power of either party are called *voluntary*; others are *involuntary*; and ſome are of a mixed nature. But neither ſide is underſtood to be obliged to make theſe conditions called voluntary or mixed to exiſt, * for then they would be abſolute covenants of the bargain.

VIII. THE due freedom of conſent may be taken away by fear. But of this there are two ſorts, one denoting a ſuſpicion that when one party has fulfilled his part of the bargain, the other party won't fulfil his: the other denotes a terror occaſioned by ſome great evil threatened. As to the former ſort theſe obſervations ſeem juſt: 1. He that voluntarily contracts with openly unjuſt and impious men, whoſe characters he previouſly knew, is plainly obliged by his contract, as he muſt have tacitly renounced any exception from their character, which was previouſly known. But 2ly. If he only comes to the knowledge of their characters after the contract, 'tis not indeed void; but he may juſtly delay performing on his part, till they give ſuch ſecurity for the performance of theirs as a wiſe arbiter

* A voluntary condition is of this ſort: "If I ſhall retire "to live in the country, I agree to ſet my city-houſe at ſuch "a rent." By this I don't bind myſelf to live in the country. "I promiſe, if I incline to ſell certain lands, that ſuch "a man ſhall have them at a certain price."

judges ſufficient. To maintain that all contracts entered into with the unjuſt, or heretical or impious, are void, would deſtroy all faith among men; ſince there are no ſuch obvious characteriſticks to diſtinguiſh the good from the bad as all will agree in: and conſidering the weakneſſes of mankind, they have always had the moſt oppoſite opinions about the moral and religious characters of men around them; as in all ages there have been the greateſt diverſities and contrarieties of opinions.

As to the ſecond ſort of fear; when I have been forced into a contract by fear of evil threatened; there are two caſes, according as the evil is unjuſtly threatened either by him I contract with, or by a third perſon without any colluſion with the perſon I contract with. In the later caſe when by contract I obtain the aid of an innocent man againſt dangers threatened by another, no doubt I am bound; unleſs there be ſomething very exorbitant in the terms. For the giving aid in ſuch perils is no doubt a moſt uſeful ſervice well deſerving compenſation.

If indeed I am threatened unjuſtly with ſome great evil by any man unleſs I enter into a certain bargain or make a promiſe, to a third perſon, who is in no colluſion with him who threatens me, while yet I am forced to conceal from him the terror I am under; the bargain or promiſe is void, becauſe by this terror I am deprived of that liberty which is neceſſary in commerce. But any damage this innocent perſon ſuſtains by the diſappointment, I am bound to make it good, as it was occaſioned by me for my own ſafety. The ſame holds

when through my cowardice I have been exceſſively afraid without cauſe.

Any contracts entered into from fear of a juſt magiſtrate, or the ſentence of a judge, are plainly valid, ſince we are deemed ſubjected to ſuch civil power.

IX. BUT when I am forced to contract through fear of evils unjuſtly threatened by the very party I contract with, we muſt diſtinguiſh whether theſe evils are threatened under ſome ſuch plauſible ſhew of right as might poſſibly impoſe upon an honeſt man, or on the other hand, by openly avowed injuſtice, without any ſuch ſhadow of right. In the former caſe, tho' the author of ſuch violence acquires no right by it, which he can uſe with a good conſcience; yet on account of ſome more diſtant intereſts of mankind, he may have a ſort of *external right*, with which the other party may be bound to comply. Nothing is more incident to mankind than to miſtake about their rights; and hence ariſe wars too frequently, while yet neither ſide is ſenſible of the injuſtice of their cauſe. Theſe wars muſt either be compoſed by treaties and contracts, or muſt end with the ruin of one ſide. Now 'tis highly eligible that they ſhould be ended rather by ſome treaty: and treaties could be of no uſe if they ſtill lay open to this exception of unjuſt force, which either ſide might plead whenſoever they inclined to renew the old controverſy. This exception therefor muſt not be allowed againſt treaties of peace, when there were any plauſible pretences on both ſides for the preceeding war. If indeed the terms of peace are manifeſtly iniquitous and oppreſſive, contrary to all humanity, making life quite miſerable

rable and ſlaviſh to the leſs fortunate ſide; ſuch tre
ties have no plauſible ſhews of juſtice, and ly open t
the exception *.

But where violence is uſed or threatened, witho
any pretence of right, to extort promiſes or contract
they cannot be obligatory. By ſuch violence the au
thor of it plainly abdicates or forfeits all the rights
men; all the benefits to be claimed from the law of na
ture, or the humanity of his fellows; as he openl
profeſſes himſelf a common enemy to all, free from
ny ſocial tye. The common ſafety therefor requir
that ſuch monſters ſhould be cut off by any means. Sup
poſe that ſuch extorted promiſes were valid, yet wha
ever upon ſuch a promiſe is due to the author of th
violence, he is always indebted at leaſt as much to th
perſon thus compelled, upon account of damage don
him unjuſtly: theſe two claims therefor extinguiſh eac
other by *compenſation*. Nor can one here allege tha
by the act of promiſing under this terror the promiſe
tacitly renounces this exception of unjuſt force previ
ouſly known; for this forced renounciation alleged
one part of the damage: and what pretence is there
alleging an obligation by tacit compact, to one who
ſuch a cauſe is incapable of acquiring a right by th
moſt expreſs contract, and who in this very affair al
dicates or forfeits all human rights?

But, however that no regard is to be had to ſuch pe
ſons in thus trampling upon all the rights of mankin
yet when they ſufficiently appear to be returning to
ſoberer mind, aſking pardon of what's paſt, offering
qu

* See Book II. Ch. xv. 8. and Book III. Ch. vii. 8. 9

uit their faſtneſſes, to deliver their arms, and to give ecurity for their future conduct; and when ſuch con-ederacies cannot be otherways deſtroyed without ſhed-ing much innocent blood of our citizens; the com-non intereſt may ſometimes require to enter into ſuch reaties with them, and to obſerve them faithfully: nd as to any of our citizens who by this means are xcluded from proſecuting them for reparation of da-nages, they ought to obtain it from the community.

X. CONTRACTS or promiſes cannot be of force un-ſs the matter of them be *poſſible* to the parties: and herefore no man can be obliged to † what he cannot ccompliſh tho' he ſeriouſly deſired it. If one has pro-miſed any thing, which by ſome ſubſequent accident ithout his fault becomes impoſſible, he is only obliged o reſtore or compenſate the value of any thing he re-eived in conſideration of it. Where the fraud or other roſs fault of one party either made the matter impoſ-ble, or concealed the impoſſibility, he is obliged to ake good ‡ the profit which would otherways have riſen to the other.

The matter of contracts muſt alſo be lawful: that our contracts or promiſes ſhould be only about the tural matters of commerce, which can be alienated, e adminiſtration of which is committed to human udence, and not prohibited by any ſpecial law. No bligation therefor can ariſe from any promiſe, to vio-te directly the reverence due to God, or the perfect ghts of others, or to do what any ſpecial law prohi-ts, or what is not committed to our power.

1. If

† Book II. Ch. iii. 2. ‡ *Praeſtare quod intereſt.*

1. If therefor both parties know the unlawfulne of the terms of any contract, or ought to have know it; the contract is void. The one who employed a other to commit a crime, may redemand what he ga to the perſon hired, before he has committed the crim And if the crime be previouſly committed, the exec tor ought not to have the hire; nor if he previouſ received it, can the perſon who hired him redeman it. Both equally deſerve the higheſt puniſhments; n ſhould either hold any advantage by ſuch engagement

If after the contract the iniquity of it appears to e ther ſide, which they had not formerly conſidered; b fore execution either of them may free himſelf from i and any reward given ſhould be reſtored. Nor aft execution can the perſon employed claim his rewar unleſs the moral turpitude affect only the hirer and n himſelf; or unleſs his ignorance was no way culpabl But where the turpitude only affects the perſon wh employed him, then he may juſtly claim his hire. 'T the general intereſt of mankind that there ſhould no allurements to ſuch crimes, nor dependence up ſuch contracts.

But if the vice in any performance of covenant on conſiſt in this, that a man has managed imprudent and contrary to the duty of a diſcreet cautious man, theſe matters which naturally fall under commerc 'tis of ſuch importance to maintain the faith of co merce, that in this caſe, too "our tranſactions a "covenants are obligatory, tho' we were faulty in e "tering into them."

Covenants about the goods or actions of others whi

are not ſubjected to our power, are in the ſame caſe with thoſe about impoſſibilities. Whoever has acted fraudulently in ſuch covenants is lyable to make good all the profit would have accrued from the faithful performance of them: and he who has deceived others by any culpable negligence is obliged to compenſate the damages.

XI. EVERY ſort of contracts about one's goods or labours does not immediately diveſt him of all moral power of tranſacting about them in a different manner with others. This is the caſe only in ſuch as convey the intire property at once, or a real right; or ſuch as give another the whole right to one's labours for a certain time, or during life, ſo as to preclude his contracting with others about the ſame. But when one has only made a contract conſtituting a *perſonal right* againſt himſelf, he may thereafter convey a valid *real* right, to ſuch as knew nothing about the former contract, which will take place of the perſonal right tho' prior. Where indeed this new grantee has acted fraudulently, being apprized of the former contract; the ſubſequent one ſhould be void. For the law of nature can never confirm frauds, or any * contracts plainly contrived and deſigned to elude any obligations of humanity, when this deſign muſt be known to both parties in the contract. But in other caſes, "of two covenants "entered into with the ſame perſon, the later derogates from the former." But of contracts entered into about the ſame thing with different perſons, "ſuch "as convey a real right take place of thoſe which on-

* Matth. xv. 5. Mark vii. 11.

" ly convey a perſonal;" provided there has been no fraud on his part to whom the real right is transferred. And laſtly in contracts of the ſame nature entered into with different perſons, " the prior takes place of " the poſterior.

XII. WE may contract by *factors* or *agents*, or perſons commiſſioned for that purpoſe, as well as in our own perſons. Where full powers are given, and no ſpecial inſtructions to be ſhewn to all he deals with, expreſſing the extent of our agent's commiſſion, and how far we ſubject our rights to his tranſactions; we are deemed to be obliged to ratify what he does in our name, unleſs we can make proof that he acted fraudulently, or was bribed by the other party; or the manifeſt iniquity of his deeds ſatisfy a prudent arbiter that he muſt have been corrupted. As to any ſmaller injuries we ſuſtain, we muſt impute them to our agent, while we ratify what he has done with others.

But when the powers of the agent are ſpecially declared to all concerned, what he tranſacts beyond the bounds does not oblige his conſtituent.

CHA

CHAP. X.

Our Obligations in Speech.

OUR duties in the uſe of ſpeech have a near affinity to thoſe in contracts. Mankind enjoy this preeminence above other animals, that they have the powers of reaſon and ſpeech, by which chiefly a ſocial life, commerce, and an intercourſe of kind offices are maintained. 'Tis in general plain that we are bound to uſe theſe excellent gifts of God in ſuch manner as is moſt conducive to the general good, and ſuitable to our ſeveral obligations in life.

In this important matter we have very manifeſt indications of what God requires of us, in the very ſtructure of our nature: an immediate ſenſe ſeems to recommend that uſe of ſpeech which the common intereſt requires. In our tender years we are naturally prone to diſcover candidly all we know. We have a natural averſion to all falſhood and diſſimulation, until we experience ſome inconveniency from this openneſs of heart, which we at firſt approve. Reflection, a regard to the common good, and a prudent care of our own ſafety, will often perſuade us to conceal or be ſilent about certain things; and to reſtrain the firſt impulſe of our mind. But when we reſolve to ſpeak to others, then both the immediate ſenſe of our hearts, and a rational regard to the common intereſt, will recommend and enjoin upon us this ſteddy rule or purpoſe, of ſpeak-

ing nothing contrary to the ſentiments of our heart or which will deceive others. Theſe are our natural ſentiments whether we are judging of our own conduct or that of others.

For as a great ſhare of the moſt uſeful knowledge in the affairs of life, as well as that of a more ſpeculative kind, is acquired from the converſation of others who are under no ſpecial obligations of communicating to us their ſentiments; this advantage of a ſocial life, not to mention the pleaſures of converſation with mutual confidence, muſt be entirely loſt, unleſs men maintain truth and fidelity in all their diſcourſe with each other.

What we ſay of ſpeech holds alſo concerning other ſigns uſed for the ſame purpoſe of communicating our ſentiments, viz. common writing, or hieroglyphicks.

II. WE muſt alſo obſerve here that there's a twofold uſe of ſigns, whether natural, or artificial and inſtituted: * one in which the perſon who cauſes the appearance is never imagined to make any profeſſion, or to have any intention of communicating his ſentiments to others. The ſpectator according to his own ſagacity concludes from the appearances ſome fact or other without imagining that the perſon who occaſioned the appearances did it with a view to give him any information. The other uſe of ſigns is of ſuch a nature that it plainly contains this profeſſion, or gives the obſerver juſt ground to conclude that ſuch ſigns were made deſignedly to intimate ſomething to him.

In the former way of making ſigns, there's no peculia

* See *Grotius de Jure belli, &c.* L. III. 1. 8.

ir obligation: we are only under that obligation com-
on to all parts of life, to do no hurt to our neigh-
our without a juſt cauſe. But when there is juſt cauſe,
in the caſe of a juſt war, we may without blame uſe
ch arts of deceiving, which are called *ſtratagems*.
ay provided we do no hurt to any innocent perſon,
ere's no crime in deceiving * by ſuch ſort of ſigns
ir very beſt friends.

But we are under very different obligations as to the
her uſe of ſigns. For without preſuppoſing any old
venant or formal expreſs agreement, the very uſe of
gns in certain circumſtances may plainly contain the
ture of a *tacit convention*, and he who exhibits
em is juſtly underſtood to covenant with the other
communicate his ſentiments, according to that inter-
etation of theſe ſigns which is either natural or cuſto-
ary, unleſs there be ſome ſpecial reaſon † in the caſe,
nown on both ſides, why we ſhould depart from the
dinary interpretation. For did we not univerſally un-
erſtand ſuch an agreement as to ſpeech, it would be a
diculous action either to addreſs ſpeech to another or
liſten to it. And the ſame holds as to ‡ other ſigns
tural or inſtituted, uſed in this manner.

* Thus an army intending to decamp in the night, yet
ep all their fires burning in the old places, to conceal
eir motions. A ſtudious man to avoid interruption, keeps
s doors ſhut, and his ſtreet-windows darkened, whence we
nclude that he is abroad.

† A cypher agreed upon, for inſtance.

‡ Thus ſending wings or ſpurs to a friend at court, inti-
ates to him that we imagine he is in danger, and contains
is profeſſion.

Theſe

Theſe therefor are the laws of ſpeech and writi
1. "Where others have a right to know the whole
"timents of the ſpeaker, he is obliged not only
"ſpeak truth but to reveal the whole truth." T
holds as to witneſſes in courts of juſtice, and ſuch
have engaged to communicate the whole myſtery
any art.

The ſecond law is. "Tho' others may have no
"culiar right to know our ſentiments, yet when
"ſpeak to them, we ſhould ſay nothing but what
"grees with our ſentiments according to the comm
"interpretation which obtains among men of unc
"ſtanding." One is therefor guilty of falſhood or ly
who ſpeaks what is thus contrary to his ſentiments,
tho' by ſome unuſual way of interpreting the wor
or by ſome mental reſervation, it might agree w
them. If ſuch arts were allowed, a gate would be op
ed to all deceit and fraud.

III. THAT our duty in this point may the better
pear, we muſt obſerve, 1. that all ſigns, eſpecially wo
ſhould be uſed in the cuſtomary manner, without
gard to antient obſolete meanings or etymologies. H
preſſions of civility and courteſy, or titles of hono
deceive no body. They are known not to ſignify w
the ſame words do on other occaſions.

2. If 'tis known to all concerned that in ſome affa
certain perſons are allowed to deceive; nor does
perſon deceived, when he comes to diſcover it, co
plain of it as an injury; what artifice or falſe-ſpeak
is uſed in theſe affairs is not deemed criminal. Thi
the caſe in many diverſions; and ſometimes in ſeri
buſine

ineſs, when we commit ourſelves entirely to the duct of others, in whoſe wiſdom and fidelity we nfide; as patients do to phyſicians, and ſoldiers to ir commanders in chief.

3. Nay if the cuſtom has prevailed in war, that e-nies deceive each other by falſe narrations when y can, nor do the deceived complain of it as a vio-ion of the laws of civilized nations: one may judge t by a new tacit convention enemies have remitted each other that right otherways founded in the ge-al conve.tion contained in the addreſſing of ſpeech other.. But a candid mind would not without the ſt urgent cauſes uſe ſuch methods, ſince they have a ng appearance of moral turpitude.

4. But the deceiving of enemys by any pretence of treaty or covenant, never was nor can be allowed. it is by treaties alone that we can maintain the re human methods of carrying on war, and prevent moſt ſavage cruelties; or reſtore peace again with-t the deſtruction of one ſide, or reducing them to ſerable ſlavery.

5. But this obligation about ſpeech, as all others nded in tacit conventions may be prevented or ta-n away, by a * timely premonition of all concerned.

6. Beſide the above mentioned exception of unjuſt ce in matters of contracts, ſome plead for another ception from ſome grievous and extraordinary ne-ſities; when without falſe-ſpeaking we cannot pre-ve the innocent, or the moſt worthy perhaps of man-nd, or even a whole nation, from ruin. Whatever force

* See the preceeding Chap. § 6.

force there is in this exception, 'tis plain it is not
culiar to this ſubject; ſince it ſeems, as we ſhall * he
after ſhew, that this exception takes place in moſt
the other ſpecial laws of nature.

7. Where men with malicious intentions, and wi
out having any right to demand it, are endeavour
to diſcover a perſon's ſentiments by captious and i
dious queſtions; when even his ſilence would diſco
all they want to his ruin: if there occurr to him ſi
anſwers as to good unprejudiced men would bea
true ſignification according to his ſentiments, while
they will appear to theſe inſidious enemies to ſign
ſomething very different; † he may uſe ſuch eva
anſwers, tho' he foreſees that his unjuſt enemies w
be deceived by them.

8. Since maintaining veracity in all our conver
tion is of ſuch importance in ſociety, 'tis plainly unla
ful to uſe falſe-ſpeaking from any of thoſe ſmaller m
tives which frequently occurr in life; ſuch as, to pa
fy men in a paſſion of anger, or to comfort the ſorro
ful; or in general to obtain any advantages or av
any evils which are not of the very higheſt kinds.
we may by other means conſiſtent with all candour a
ſincerity generally obtain theſe ends more effectual
and either prevent theſe evils, or aſſiſt men to b
them with fortitude. And however ſuch falſe-ſpeaki
may at firſt have ſome effect, before it becomes kno

* Ch. xvi. of this Book.

† Of this there are inſtances in very great characters;
alſo of many expreſſions which the ſpeaker abundantly kn
that the hearers would underſtand in a very falſe ſenſe.

at we make no conſcience of ſpeaking truth in ſuch
ſes; yet, when this is once known, and when men
nerally take this liberty, they loſe all credit in ſuch
ſes with others, and mutual confidence is deſtroy-
. So much concerning veracity.

IV. BUT there are other ſacred duties in the uſe
ſpeech; and this in the firſt place, that we ſtudy to
ake our ſpeech profitable to others, in recommend-
g and cheriſhing ſincere virtue, in correcting the vain
aginations of men about the true happineſs of life;
teaching, admoniſhing, exhorting, comforting, and
metimes reproving ſharply, and all theſe ſhewing an
arty intention of doing good. Theſe too are among
e moſt honourable offices, to reconcile friends who have
en at variance, to prevent animoſities, or to compoſe
em. Nor is there any thing a good man will more
nſcientiouſly avoid than hurting the characters of o-
ers. Nay he will not only avoid the ſpreading of falſe
lumnies, but will conceal the ſecret faults of others,
leſs he be forced to divulge them to prevent the ſe-
cing the innocent, or to avert ſome publick evil. For
en who have loſt their characters and are publickly
famous, are on this account far harder to be reclai-
ed to virtue; and the more that vice appears to a-
und in the world, the vitious grow the more impu-
nt.

Criticks have obſerved that many words, beſide their
imary meaning, have alſo an additional ſignificati-
of the diſpoſitions of the ſpeaker: and hence there
often three ſorts of names for the ſame things, or ac-
ns. One of a middle nature, barely denoting its ob-

ject; another denoting the ſpeaker's delight in it, or h
keen paſſion for it; the third denoting his averſion a
hatred of it. And from this we ſee how to anſwer t
reaſonings of the old *Cynicks*, againſt ſuppoſing a
crime in obſcenity of language; that tho' it be tru
there's no work of God, or natural action, which m
not be a proper ſubject of inquiry and ſpeech to a go
man, on ſome occaſions, yet we may evidence gr
depravation and turpitude of mind in ſpeaking abo
the diſſolute actions of others: to wit, by uſing ſu
words as betray a like diſſolute temper in ourſelv
and a delight in ſuch vices, and kindle like vitious p
ſions in the minds of the hearers. And in this conſi
obſcenity, which is hateful and deteſtable in conver
tion.

CHA

CHAP. XI.

Of OATHS *and* VOWS.

OATHS are deemed a natural confirmation of promiſes or teſtimonies, in the more important affairs: an *oath* is "a religious act in which for confirmation of ſomething doubtful, we invoke God as witneſs and avenger, if we ſwerve from truth." A truly good man indeed will ſo ſtrictly regard veracity, that ſuch as know him well need not require his oath. But when the intereſts of thoſe are at ſtake who know not his character, they may juſtly demand his oath, in confirmation either of his teſtimony or his promiſe. Since the uſing of oaths in ſuch caſes contains no impiety toward God; but is rather an expreſſion of pious reverence; as we acknowledge in ſwearing his univerſal knowledge, and government, and juſtice.

And ſince this perſuaſion has obtained, in all nations and ages, that God exerciſes a juſt government over the world, inflicting puniſhments on the wicked; this invocation of God as witneſs and avenger muſt raiſe in men's minds an higher ſenſe of their obligations, and deter them from falſhood. But we muſt not imagine that our invocations make God more attentive in obſerving, or more keen in puniſhing of perfidy; or that by our voluntary conſent, we give him any new right of puniſhing he had not before. Our own guilt indeed is made much greater when, after the confirmation of

an oath, we either violate our promiſes, or falſify our teſtimony.

To ſwear about trifling matters, or without a cauſe, is very impious; as it plainly tends to abate th awful reverence which all good men ſhould conſtant maintain toward God; and is a plain indication of co tempt. Where perjuries in ſerious matters grow fr quent in any ſtate, the magiſtrates or legiſlators are g nerally chargeable with much of the guilt, if they e ther frequently exact oaths without neceſſity in ſmall matters, or when the oaths give no ſecurity in the poi in view *; when the engagement deſigned may eith be impracticable, or appear to the perſons concern to be unlawful; or if oaths are required † where the are great temptations to perjury, with hopes of imp nity from men. They alſo do bad ſervice to religi who don't appoint an awful ſolemn form of words, to ſtrike the minds of men with reverence in ſuch action.

II. 'Tis no doubt vain to exact from others, or ſwear by any being whom the ſwearer judges not i veſted with divine power, ſo as to invoke that bei as witneſs and avenger. And yet there are ſome form of oaths truly valid and not unlawful, tho' not the m convenient, where without expreſſing the name of Go the ſwearer either names ſomething very dear or n ceſſa

* Thus engagements by oath to adhere to certain ſchem of religion, which may afterwards appear falſe; or to a g vernment which may appear an unjuſt uſurpation.

† Thus *purgatory oaths* as to capital crimes, or very ſec matters of ſcandal, or injuſtice, or about a man's ſecret op nions, generally have no good effect.

eſſary to himſelf * upon which he is underſtood to im-
recate the divine vengeance, or that he may be depri-
ed of it if he ſhould act perfidiouſly; or truly invokes
od under ſome † metonymical expreſſion.

Tho' it be idle to exact an oath from any one by
y being whom he conceives not as endued with divine
ower, nor exerciſing any providence; yet there are
rtain general deſcriptions of the Deity in which men
f the moſt oppoſite religions agree: ſuch therefor
ght to be uſed, when perſons of different religious
ntiments are required to ſwear.

As in covenants, ſo in oaths, he is juſtly deemed to
ve ſworn, and to be liable to the penalties of per-
ry ſhould he falſify, who profeſſing an intention of
earing makes ſuch ſigns as ordinarily ſignify to others
at one ſwears.

Altho' an oath and a promiſe, or an aſſertion, may
ten be expreſſed by one and the ſame grammatical
ntence; yet the act of ſwearing is plainly a diſtinct
e from that of promiſing or aſſerting; as it conſiſts
the invocation of God to avenge if we violate our
th. This ſhews therefor that mens duties are not
ered as to their matter by an oath; nor any new
tter of obligation produced; nor any covenant or
miſe otherways void confirmed; nor juſt exceptions

* So we underſtand ſwearing by one's *head*, his *life*, his
, his *children*, his *prince* or *patron*, the *earth*, the *light*, the
.

† 'Tis thus men ſwear by their *faith*, viz. the object of it;
by the *heavens*, the *temples*, or *altars*; for the Divinity re-
ing in them, or to whom they are dedicated.

excluded;

excluded; nor conditional contracts made absolut
nor any obligation impoſed to act contrary to the pe
fect rights of others, or about matters not ſubject
to our power, or what would be a direct piece of
reverence and impiety toward God, or a violation
any ſpecial prohibition, by which we are preclud
from tranſacting in certain affairs. But in matters n
turally ſubjected to our power and committed to h
man prudence, as we may bind ourſelves by a comm
contract, ſo much more by one confirmed by oath,
ven when we have entered into it imprudently and ra
ly, contrary to the rules of diſcretion; unleſs when the
has been a plain obvious fraudulent deſign of defeati
ſome obligations of humanity. *

III. A promiſe tho' confirmed by oath can produ
no obligation, unleſs it has been accepted by the oth
party, who alſo after his acceptance may remit to
his right, and free us from the promiſe. A promiſe
like manner is void, upon the declared diſſent of a pe
ſon whoſe conſent was neceſſary before the promi
could oblige himſelf, or the other party accept of it.

Where one requires of us an oath by his juſt autho
ty, and preſcribes to us the form of words; if we und
ſtand his ſenſe of the words, and can ſincerely ſwe
in that ſenſe, 'tis well; if not, we ſhould not take t
oath. No inferior magiſtrate deputed to take an oa
in the name of the ſtate has a right to give explica
ons of the *formula* preſcribed by the ſupreme powers.

Oaths according to their different purpoſes are
vid

* Mark vii. 11, 12, 13.

ded into *promiſſory* and *aſſertory*. Oaths of this la-
r ſort when required by a judge are called *neceſſary:*
d when one party in judgment refers the cauſe to
e oath of the other, 'tis called *judicial*. If this be
one, not in judgment, but by the private deed of the
rties, 'tis called *voluntary*. When an oath is demand-
from the perſon accuſed in a criminal action, to re-
te imperfect proof; 'tis called a *purgatory oath*, or
th of purgation.

But in ſuch caſes where a perſon's life or character
concerned, as there are very high temptations to per-
y; this way of exacting purgatory oaths in tryals is
hly improper and unjuſt. By this means the impi-
s and wicked will always be abſolved; and thoſe on-
convicted who retain ſuch a ſenſe of piety that they
n't even for preſervation of life or character per-
e themſelves. A good man ſurely would rather chooſe
t ſuch perſons ſhould eſcape puniſhment for a doubt-
crime, (of which, if they have really been guilty,
y will probably ſoon repent ſincerely), than that
y ſhould be brought to ſuffer by their very ſenſe of
gion.

V. A vow is a religious promiſe made to God a-
t ſomething to be done or performed. In vows we
't conceive a right transferred to men, unleſs they
e been alſo attended with a contract. The main
of vows is this, that by a ſerious conſideration of a
and holy Deity beholding all our actions, we may
her confirm all our pious and virtuous reſolutions;
be the more cautious of neglecting our duty, leſt
we

we ſhould alſo involve ourſelves in the horrid guilt perjury.

But as no promiſe not accepted by the party to who 'tis made can be obligatory; and as we are ſure G will not accept any promiſes made to him raſhly, of any ſudden fear, or other paſſion, which is cont ry to the mans duty; and 'tis moſt unworthy of t Deity to imagine him as it were inſidiouſly watching catch advantages of the incautious, timorous, wra ful, or ſuperſtitious; or that, contrary to the comm intereſt of all, he has ſome favourite orders of men whoſe advantage he is acting the part of a ſharping gent, ſnatching at all opportunities of gain to the hence it muſt appear, that vows can produce no o gation to ſuch actions or performances as would antecedently have been pious, humane, and prude Much leſs are vows of any avail which men take themſelves from hatred, envy, groundleſs or exce anger, or contrary to either the perfect rights of thers, or even any obligations of humanity*. V therefor produce no new matter of obligation.

* Mark vii. 11, 12.

CH

CHAP. XII.

Concerning the VALUES *or* PRICES *of* GOODS.

TO maintain any commerce among men in interchanging of goods or ſervices, the values of em muſt be ſome way eſtimated: for no man would ve away things of important and laſting uſe or plea- e in exchange for ſuch as yielded little of either; nor ods which coſt much labour in acquiring, for ſuch can eaſily be obtained.

The ground of all price muſt be ſome *fitneſs* in the ings to yield ſome uſe or pleaſure in life; without s, they can be of no value. But this being preſup- ed, the prices of things will be in a compound pro- tion of the *demand* for them, and the *difficulty* in uiring them. The *demand* will be in proportion he numbers who are wanting them, or their neceſ- to life. The *difficulty* may be occaſioned many ys; if the quantities of them in the world be ſmall; ny accidents make the quantity leſs than ordinary; uch toil is required in producing them, or much enuity, or a more elegant genius in the artiſts; if perſons employed about them according to the cu- n of the country are men in high account, and live more ſplendid manner; for the expence of this ſt be defrayed by the higher profits of their labours, few can be thus maintained.

Some goods of the higheſt uſe, yet have either price or but a ſmall one. If there's ſuch plenty in nat that they are acquired almoſt without any labour, th have no price; if they may be acquired by eaſy co mon labour, they are of ſmall price. Such is the go neſs of God to us, that the moſt uſeful and neceſſ things are generally very plentiful and eaſily acquir

Other things of great uſe have no price, either cauſe they are naturally deſtined for community, or c not come into commerce but as appendages of ſo thing elſe, the price of which may be increaſed by th tho' they cannot be ſeparately eſtimated *; or beca ſome law natural or poſitive prohibits all buying or ſ ing of them. Of this laſt ſort are all religious offi actions, or privileges; and even the ſalaries of reli gous offices, which are either deemed only what is ceſſary for the ſupport of perſons in ſuch offices, or committed to their truſt as funds of liberality and c rity toward the indigent. Buying and ſelling of ſ things from a well known piece of hiſtory is ca *ſimony*.

II. BUT as it may often happen that I want ſo goods of which my neighbour has plenty, while I h plenty of other goods beyond my own uſe, and yet may have no need of any of my ſuperfluous ſtores; that the goods I am ſtored with beyond my occaſi may be quite ſuperior in value to all I want from neighbour, but my goods cannot be divided into pa without great loſs: for managing of commerce th

* Examples of theſe ſorts are the air, the light of the wholeſome air in certain ſituations, fine proſpects.

uſt ſome ſort of ſtandard goods be agreed upon; mething ſettled as the meaſure of value to all others; hich muſt be ſo generally demanded, that every one ill be willing to take it in exchange for other goods, ce by it he may obtain whatever he deſires. And in- ed as ſoon as any thing is thus made the ſtandard of values, the demand for it will become univerſal, as will ſerve every purpoſe.

The goods which are made the ſtandard, ſhould have eſe properties; firſt, they ſhould be of high value, that ſmall portable quantity of them may be equal in va- to a great quantity of other things; again, they uld not be periſhable, or ſuch as wear much in uſe; laſtly they ſhould admit of all manner of diviſions hout loſs. Now theſe three properties are found only he two more rare mettals, ſilver and gold; which refor have been made the ſtandards of commerce in civilized nations.

III. AT firſt they have dealt in them by * weight; to prevent the trouble of making accurate diviſions the ſeveral barrs or pieces of mettal, and to prevent nds by mixing them with baſer mettals, *coinage* been introduced. For when the coining of money ommitted under proper regulations to truſty hands, re's ſecurity given to all for the quantities of pure tal in each piece, and any broken ſums agreed upon be exactly paid without any trouble.

But the real value of theſe mettals and of money too, that of all other goods, is leſſened as they are more

* This appears both by hiſtory, and the Roman word *endere*, *expendere*, &c.

plentiful; and increaſe when they grow ſcarcer, th
the pieces keep the ſame names. The common neceſ
ries of life have a more ſtable natural price, tho' the
are ſome little changes of their values according to
fruitfulneſs of the ſeveral ſeaſons. Were one to ſet
perpetual ſalaries to certain offices, which ſhould ſ
port men perpetually in the ſame ſtation in reſpect
their neighbours, theſe ſalaries ſhould be conſtituted
certain quantities of ſuch neceſſary goods as depend
pon the plain inartificial labours of men, ſuch as gra
or other neceſſaries in a plain ſimple way of living.

IV. No ſtate which holds any commerce with
neighbours can at pleaſure alter the values of their c
in proportion to that of goods. Foreigners pay rega
not to the names we give, but to the real quantities
pure mettal in our coin, and therefor the rates of go
muſt be proportioned to theſe quantities. But afte
legal ſettlement of the denominations of coins, and m
contracts and obligations ſettled in theſe legal ſums
denominations, a decree of ſtate raiſing the nominal
lues of the pieces will be a fraud upon all the credit
and do much gain to the debtors; and the lower
their nominal values will have juſt the contrary
fects.

The values too of theſe two mettals may alter th
proportions to each other; if an extraordinary qua
ty of either of them be brought from the mines; o
great conſumption made only of one of them in the
naments of life, or great quantities of it exported.
unleſs the legal denominations or values of the pie
be changed in like manner, ſuch coin as is valued w

s too low in proportion to the natural value of the
nettal, will be exported; and what is valued with us
oo high will remain, or be imported, to the great de-
riment of the country.

Whereſoever a coinage is made in baſer mettals, the
uantities in each piece muſt be made ſo much the grea-
er; otherways the trade with foreigners muſt be loſt.
When notes or tickets paſs for money, their value de-
ends on this, that they give good ſecurity for the pay-
ent of certain ſums of gold or ſilver.

CHAP.

CHAP. XIII.

Of the SEVERAL SORTS *of* CONTRACTS

CONTRACTS are divided into the *beneficent* a *onerous:* in the former ſome advantage is gratu touſly deſigned for one of the parties; in the later t intereſt of both is equally regarded, and the parti profeſs to transfer mutually things of equal value.

There are three ſpecies of beneficent contracts, *commiſſion* undertaken gratuitouſly, gratuitous *loan f uſe*, and gratuitous *cuſtody* of the goods of others.

In undertaking gratuitouſly to manage the buſine of others by their commiſſion, if they have preſcribe a particular manner of executing it, we are obliged follow their orders; or if we depart from them we a liable to compenſate what damage thence ariſes. Whe the matter is left to our prudence; we are deem bound to uſe ſuch care as a wiſe man uſes in like ma ters of his own, nor are we liable for every accide which might poſſibly have been prevented by the u moſt care; unleſs we have expreſly undertaken for t utmoſt diligence, or the high nature of the buſine plainly required it; or we have obtruded ourſelves o ficiouſly, when others more capable might have be obtained.

W

* There are no preciſe technical words in Engliſh to a ſwer the three Latin words *mandatum*, *commodatum* and *dep tum*. And therefor the formal definitions are omitted.

We muſt obſerve this about all beneficent contracts, at he who intends a favour to others, is not deemed undertake an higher obligation than he expreſly con-nts to, or than the nature of the buſineſs commonly quires: but the perſon on whom the favour is con-rred, out of gratitude ſhould deem himſelf more ſtrict-bound, and make good all loſſes occaſioned by any lighteſt fault of his; that none may have occaſion repent of their intended favours to him.

II. THE gratuitous loan for uſe where the very ſame ods are to be reſtored, binds the borrower to the high-care and to make good all loſſes occaſioned by any gligence of his: (2) nay alſo to make good ſuch ac-ents as the goods had eſcaped had they remained h the lender, except he generouſly remit his claim: (3) can the borrower take any other uſe than the der granted: and (4) he ought to reſtore them in od order at the time agreed, no further impaired than y muſt be by the uſe allowed. Nay humanity would ige to reſtore them ſooner if the owner needs them; if we need them more and keep them, to make od the loſs he ſuſtains by wanting them.

The gratuitous lender is to refund any expences de upon the goods lent, except ſuch as are ordina-requiſite in the uſe of them; or at leaſt to refund value of any improvements made upon them as far hey are bettered for his purpoſes, and ſo he is in-ed. The civilians diſtinguiſh between this contract a *loan for conſumption*, in which the ſame indivi-l goods are not to be reſtored, but equal quantities, ghts or meaſures.

III. DE-

III. DEPOSITING of goods for gratuitous custo obliges the keeper to ſuch diligence as a wiſe man u in keeping like goods of his own, and to make go any loſſes by any groſs negligence of his. He ought make no uſe of them without the owner's conſent, a reſtore them when demanded; except it be for ſu purpoſes wherein he might have a right by force to fiſt the owner. And he juſtly inſiſts to be indemnify as to all expences wiſely employed for preſervation the goods. *

IV. IN the *honorous contracts*, or theſe for valua conſideration, the parties profeſs or undertake to tra fer mutually goods or rights of equal value. A therefor honeſt men ſhould conceal nothing, or g no falſe repreſentations about the qualities eſtimable ſuch goods, or their defects: and when they inadv tently have departed from equality, according to judgment of a wiſe arbiter, he who had leſs value t he gave, ſhould have ſomething further paid him the contract be brought to equality; and this he ha perfect right to demand; tho' no courts of juſt could have time to give redreſs to every little iniqu in ſuch matters.

Mutual donation is not to be reckoned among o rous contracts, as in it there is no regard had to eq lity between the things mutually given.

From what we ſaid about the grounds of price, plain that in eſtimating the values of goods in pla

* The Tranſlator omits the next paragraph in the or nal, explaining the *actiones directae et contrariae* of the c lians.

ace, we are not only to compute the disburſment made buying, importing, and keeping them ſafe, with the tereſt of money thus employed; but alſo the pains d care of the merchant; the value of which is to be imated according to the reputable condition in which ch men live, and to be added to the other charges u- on the goods. This price of the merchant's labour is e foundation of the ordinary profit of merchants. But goods exported or imported are ſubject to many ac- dents, by which they may even periſh altogether; is is a natural reaſon for advancing the price of ſuch oods as are ſafe. And as merchants are liable to loſſes hen the prices of ſuch goods, as they are well ſtored ith, by any unexpected plenty happen to fall; to make ood ſuch caſual loſſes they have a right to take a lar- r profit, when the goods they are well ſtocked with ppen by any accidental ſcarcity of them to riſe in eir prices.

V. Theſe are the principal onerous contracts. 1. *arter* or exchanging goods for goods. 2. *Buying* d *ſelling*; the ſimpleſt form of which is at once pay- g the money and receiving the goods. If 'tis agreed at the goods are to be delivered on ſome future day, e price being previouſly paid, or ſuch ſecurity given r it as the ſeller accepts; before the day fixed the ller muſt run the hazard of what accidents befal the oods; but after the day, if the ſeller was ready then deliver them, he is only in the caſe of one with hom they were depoſited; as he would have been om the firſt if he was then ready to deliver them. *

* The Tranſlator here omits a paragraph explaining ſome

Sometimes men purchaſe no certain goods but hazard, or ſome advantage upon a contingency. ſuch contracts equality may be preſerved if the pric abated below the real value of the advantage in a proportion to the hazard of our gaining no advant at all.

VI. IN *location*, or ſetting to hire, for a certain pr we allow one the uſe of our goods, or our labo The ſetter ſhould make the goods fit for uſe, and u hold them ſo; and the hirer is bound to uſe them diſcreet men uſe like goods of their own, and to ma good any loſſes occaſioned by any groſs negligence his. If the goods periſh without any fault of his, h no longer liable for the price of the hire than he h the uſe of them: or if without his fault they beco leſs fit for uſe, he may inſiſt on an abatement of t price or rent. But as in lands all the profits of a ple tiful year fall to the tenant, ſo he muſt bear the ca al loſſes of a leſs fortunate one. Indeed the rarer ca of extraordinary calamities, ſuch as of wars, inunda ons, peſtilence, ſeem to be juſt exceptions; as the nant cannot be preſumed to have ſubjected himſelf rents in ſuch caſes. † And in moſt of contracts the greements of parties alter the obligations.

One who is hired for a certain piece of work, if is hindered from it by any accident, has no claim

terms of the Roman law not neceſſary to an Engliſh read Such as *addictio in diem*, *lex commiſſoria*, *lex retractus*, *pact ſios*, &c.

† A part alſo of the following ſection is omitted for ſame reaſon, about the *locatio operis* and *locatio operæ*.

e hire. But when one hires a perſon by the year, or r a longer time, the hirer ſeems bound to bear the s occaſioned by any ſuch ſhort fits of ſickneſs as the oſt firm conſtitutions are ſubject to, nor can he on t account make any deduction from the price a-eed upon.

VII. In *loans for conſumption* ‡, we don't expect e ſame individual goods, but equal quantities by ight or meaſure. If the loan is not deſigned as a fa-ur, there's a right to demand *intereſt*. Nor is it ne-ſſary to make intereſt lawful that the goods lent be turally fruitful: for tho' money for inſtance yields natural increaſe; yet as by it one may purchaſe ſuch ods as yield increaſe; nay by employing it in trade manufactures may make a much higher gain; 'tis t natural that for ſuch valuable advantages accruing us by the loan, we ſhould give the owner of the ney ſome price or recompence proportioned to them. e prohibition of all loans for intereſt would be de-ctive to any trading nation, tho' in a democracy of mers, ſuch as that of the Hebrews was, it might ve been a very proper prohibition.

The juſt intereſt of money is to be determined ac-ding to the quantity of wealth employed in trade. here there's a ſmall quantity of money in a nation, d conſequently all goods very cheap, a great profit made by any ſmall ſums employed in trade with fo-gners. And therefor a great intereſt may well be d. But where much money is employed in trade, a aller profit is made on each ſum thus employed, as

Mutuum.

the prime coſt of goods is high; and therefor a ſm
ler intereſt can be afforded for it. If civil laws ſettl
intereſt don't regard theſe natural cauſes, they will
have their effect.

The obligations in the contracts of *partnerſhip*
abundantly known by the rules of arithmeticians.

VIII. We ſaid above that contracts about haza
may maintain the juſt equality: and ſome of them
of great uſe in ſociety, theſe particularly which enſ
againſt ſhipwreck, robbery, or fire: as by their me
many active induſtrious hands have their ſtocks preſer
to them, which otherways had periſhed. Theſe contra
ſeem of the ſame effect with a humane and ſalutary pa
nerſhip among multitudes to ſhare among them any lo
may happen; ſince 'tis by the premiums paid by th
whoſe goods are ſafe that the enſurers are enabled
make good the loſſes of the unfortunate.

Nor is there any thing blameable in this that a la
number for diverſion contribute to purchaſe any pi
of goods, and then caſt lots who ſhall have it: provid
none of them expoſe to ſuch hazards ſo large a port
of their goods that the loſs of it would occaſion any
treſs to themſelves or families.

The ſame may be ſaid of wagering, and of vari
games in which there's hazard; which are not alw
blameable on the account of the hazard, or of any i
quality. But then there is nothing more unworthy o
good man than, without neceſſity, to expoſe to unc
tain hazard ſuch a ſhare of his goods, as the loſs o
would diſtreſs his family; or to be catching at g
from the fooliſh raſhneſs of others, ſo as to diſtreſs the

ſuch contracts therefor are to be condemned, un-
they are about ſuch trifles as men of wealth can af-
d to throw away upon their amuſements. And be-
es, 'tis highly unbecoming a good man to give him-
f up entirely to diverſions, or waſte much time upon
em; or ſo to enure himſelf to amuſements, as to
ract habits of indolence and trifling, making him
s fit or inclined for ſerious buſineſs.

As to theſe more publick projects of lottery in which
eat multitudes may be concerned; as they bring in
new wealth to a ſtate, and only enrich ſome few of
citizens by the loſſes of others; and as men thro'
ne vain opinions of their own good luck are general-
very prone to them; they ſhould be every where
der the reſtraint of laws; leſt that wealth, which
re it employed in manufactures or commerce would
adding new ſtrength to the ſtate, ſhould be turned
o this uſeleſs and diſhonourable channel, expoſed too
nnumerable frauds, and an inſociable, fooliſh, and
hful avarice be encouraged among the citizens.

IX. In confirmation of contracts men often give
or ſureties, and pledges. The bail or ſurety is
nd to make good what is due, in caſe the principal
s. And as the creditor frequently truſts more to the
ty than to the principal, his obligation is equally
ed: nor may he uſe any evaſive arts more than if
debt were wholly his own: nor can he juſtly even
y the payment; unleſs he finds a fraudulent collu-
between the creditor and the principal to diſtreſs
.

The obligation of the ſurety may be ſtricter than
that

that of the principal, if he has given either a pledge an oath for performance; but as he is ſurety he c not be bound in a different ſum or different goods, payable at a different time or place, or upon a di rent foundation. He may juſtly inſiſt that a ſuit be commenced and judgment given againſt the princip and where more than one are ſureties, each one m inſiſt that the loſs be divided either equally amo them, or in the proportion in which they bound the ſelves.

Sureties were ſometimes given in criminal actio They may be juſtly liable to pay the fines. But it wo be inhuman to allow them to be ſubjected to any c poral puniſhments for the crimes of others.

We formerly touched at the ſubject of pledges a mortgages. If the things pledged yield increaſe, t is to be deducted annually from the intereſt or pri pal of the debt. The *clauſe of forfeiture* at the d fixed has no iniquity in it, provided any ſurplus of lue in the pledge be reſtored to the debtor after t debt is thus diſcharged. The pledgee is bound to ke the pledge with ſuch diligence as a diſcreet man ke like goods of his own, and not anſwerable for any th further; as this contract equally regards the utility both parties. Pledges and mortgages conſtitute r rights not to be defeated by any prior perſonal righ

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CHAP. XIV.

OBLIGATIONS *reſembling thoſe from* CONTRACTS.

BESIDE theſe obligations and rights already mentioned, there are others which ariſe from ſome ful action of the perſon bound: of ſuch as ariſe n unlawful actions we treat in the next chapter. eſe rights ariſing from lawful actions, ariſe either n the nature of property, or from ſome manifeſt reſt of ſociety, and common ſocial laws. The gations anſwering to them the civilians feigned to from contracts, that the forms of the actions might e ſame. They are quite different from thoſe of *taventions*, as in tacit conventions we truly con- conſent from ſome action; but in thoſe 'tis plainigned, tho' we know there was no conſent, as the er itſelf is equitable. The obligation by a tacit ention is quite prevented by a previous contrary ration of the party: but not ſo in theſe we now of; as they have another juſt foundation, indeent of the conſent of the perſon obliged.

f theſe there are two claſſes, one ariſing from this, a perſon intermeddles without any contract with oods of others, or ſuch upon which others have a laim: the other, from a perſon's taking to him- nd holding ſome valuable advantage at the ex- and loſs of others, who conſented not to ſuſtain ſuch

ſuch loſs gratuitouſly. In the former claſs is inclu
the obligation of ſuch as poſſeſs the goods they kn
belong to others, to reſtore the goods with their p
fits; as alſo his obligation † who without comm
ſion manages any buſineſs for an abſent perſon, or
a minor. All theſe are bound to account, and to
ſtore the goods with their increaſe and profits.

The like is the obligation of the heir or execu
toward the creditors or legatees of the deceaſed;
it ariſes from his entering heir, or undertaking the
ecution of the will. For 'tis plain, all the effect
the deceaſed are naturally chargeable with his de
and with whatever others have a perfect claim to.
therefor who takes poſſeſſion of the effects, the
fund whence theſe debts are to be paid, is boun
pay them, as far as the effects go, deducting for
ſelf the neceſſary expences of management. The
or executors however may always claim the bene
an *inventary*, that they may not be bound further
they find effects of the deceaſed. Nor need we
any contracts to explain the juſt grounds of theſe
gations, nor that the heir or executor is the ſame
ſon with the deceaſed.

II. As to the ſecond claſs; where a man is
by deriving to himſelf ſome advantage at the ex
of others, who did not conſent that it ſhould be
itous: under this is included the obligation of th
the other hand whoſe buſineſs was managed by
without commiſſion, and that of minors toward
guardians, to indemnify them, and compenſate

† *Negotii utilis geſtor.*

bours in all uſeful ſervices, and to ratify any contracts udently made for their behoof; and refund any pru- nt expences in their education.

What parents expend in educating their own children, e conclude from the tender parental affection, that s intended as a donation, when the parent has not de- red the contrary. Nay parents are naturally bound ſupport and educate their children ſuitably to their ndition, and to convey to them at death what re- ins of their goods. But if a parent is in great ſtraits, if any child has ſome other way obtained a plenti- fortune, a parent in theſe caſes may juſtly charge a ld with the whole expence of its ſupport and edu- ion, and exact it for his own maintainance in old , or to ſupport his other children.

III. But if one maintains and educates the child of ther; there's no preſumption here that it was done donation; 'tis more preſumable that a debt is eby conſtituted, to be diſcharged by the goods or fu- labours of this child, as far as the expence was y made for the behoof of the child; but not what intended for the ſplendor of his family who maiñ- ed it. Nay further, as generally all this expence n an indigent orphan would be loſt entirely if it before it were capable of labour; the maintain- ight perhaps, in the rigour of juſtice, be allowed harge ſomething more on account of this hazard; by this allowance men will be more encouraged to neceſſary care of indigent orphans. But then this rd continually decreaſes as the child advances in s, and cannot increaſe conſiderably the charge, ex-

cept for a few of the firſt years. An indigent orphan th
maintained is therefor in no worſe caſe than that of a
indigent perſon who without any fault of his is involv
in a great debt, from whom the creditor may juſtly d
mand payment by his labours, while the debtor reta
all the other natural rights of mankind, and whenſoev
either by his labours, (of which, he may juſtly chooſe
turn himſelf to ſuch as may be moſt beneficial to hi
and ſooneſt diſcharge the debt), or by the liberality
any friend, he can diſcharge it, he can no longer
juſtly detained in ſervice. Now were an account of
the neceſſary charge of maintainance, and of the va
of labour, juſtly ſtated, it would appear, that ſuch an
phan found in body and mind could always fully d
charge ſuch debt by his labours before he were thi
years of age: and conſequently that this can never b
foundation for perpetual hereditary ſlavery; even
lowing an extraordinary intereſt were charged upon t
expences becauſe of the hazard, as is done upon co
tracts of bottomry in trade. And yet this charge m
appear pretty inhuman upon perſons in any grievo
diſtreſs: nor can any diſtreſs be conceived greater th
that of an indigent child deſtitute of all aid from its p
rents.

Under this branch too is included the obligation
him who uſing the plea of *neceſſity*, (of which her
after) has done damage to others; and of one wi
received what appeared due, but afterward 'tis fou
was not due; or what was paid upon a contract agai
which there lay a juſt exception making it void; or r
ceived any price, in conſideration of ſomething which
n

paid or performed by him: who are all obliged to emnify and reſtore.

When one partner in a company has preſerved or im-ved at his own expence any of the common goods he company; the obligation of the other partners ard him is of the later claſs; and his to them of the ner.

The obligations contracted for us by others, if they done by our commiſſion, are manifeſt contracts; if , they come under the caſe of *buſineſs managed hout commiſſion* already mentioned.

CHAP. XV.

Of RIGHTS *arising from* DAMAGE *done, &* *the* RIGHTS *of* WAR.

FROM the former principles 'tis plain, that e one is obliged to repair any damages he m have done to others, if they desire it. But cases of happen when a good man justly may, and ought to what may occasion some damages to others; if, for stance, some goods of his of incomparably greater lue cannot be preserved, or some of the greatest e threatening him or his friends be prevented, otherw than by doing what may occasion some small los others. He has a perfect right to act thus; and yet always in such cases becomes liable to make good th losses sustained for his safety or that of persons dear him. Since this is a sacred social principle of equi that "no man for his own advantage should imp "the advantages of others; or if any necessity fo "him to it, that he make good their loss as soon "possible."

The same is more manifest in damages done inju ously. Human society cannot be maintained unless m are obliged to compensate all such damages. L prohibiting injuries would have no effect, if after th were done, the injurious could enjoy their gain w impunity.

Nay the safety of society further requires that

uſt ſhould be reſtrained from injuries by the terror ſevere puniſhment; leſt the good ſhould be conti- lly expoſed as a prey to them. And therefor altho' d and nature require of us good-will, clemency and ity, even toward the evil, yet ſurely they require a erior degree of theſe affections toward the good. d the injuſt may be reſtrained by violence and pu- ments, and obliged to compenſate the injuries done give ſecurity for their innocent behaviour for the ure, without any malice or ill-will toward them; nay doing them rather a good office, to reſtrain them s from further crimes.

II. By damage is underſtood not only "the depri- ing men of their goods, and ſpoiling or detaining hem injuriouſly; but any intercepting or preventing heir natural or artificial profits; with all thoſe incon- veniencies which enſue upon the firſt wrongs; all ain prevented, as well as loſſes occaſioned."

Whoever by himſelf or by others, whether by act- or omitting contrary to his duty, has occaſioned a- damage, which otherways would not have happen- may be deemed an author of the injury. Such as y rejoice in the injuries done and praiſe them, may eed ſhew ſuch perverſeneſs of temper as deſerves pu- ment; but as it cannot be diſcerned whether the e injuries might not have deen done without ſuch gratulations or applauſes, men are not made liable compenſation on theſe accounts alone. Where an ry has been done by many in concert, they are nd to compenſation jointly and ſeverally. But if has compenſated the whole, the ſufferer can de-

mand

mand nothing further on this account from the r
but he who repaired the whole damage may oblige
partners to bear their ſhares with him. The caſe
puniſhments is quite different; for puniſhment may
juſtly inflicted on all for the common ſafety.

Among the authors of damage, he is deemed
principal, who having authority over others, comma
ed them to do it. He therefor is firſt to be called
account, if it can be done; if not, we may demand
paration from the reſt; ſince he could not by any
ders of his give them any immunity from this oblig
on. And tho' the executors may be free from
guilt, having had the plea of neceſſity, in avoiding
far greater evils threatened them if they had not ob
ed orders; yet they are notwithſtanding bound to m
compenſation: ſince their innocent neighbours m
not ſuffer, to free them from the evils they were thr
tened with.

III. IF one without any fault, by mere accid
does damage to another; he is not ſtrictly bound to
pair it. Nay if one engaged in any important ſerv
to the community, in any dangerous emergence, wh
'tis ſcarce to be expected that men can uſe the grea
caution, happens by ſome negligence to do damag
his neighbour, it ſhould be rather repaired by the co
munity.

Damage done by hired ſervants without their
ſter's orders, ſhould be repaired by themſelves. W
is done by a ſlave binds the maſter to divide the p
of the ſlave in the ſame manner as the effects of a ba
rupt are divided among the creditors; computing

hand the value of the ſlave, which is the claim of
maſter, and on the other that of the damage done,
ch is the claim of the ſufferer; and in proportion
theſe two the price of the ſlave is to be divided.
he ſame manner the owner is bound to compenſate
age done by his cattle, without any fault or negli-
ce of his. If civil laws * have been more rigid up-
he owners, it has been with this view, that the
ers may be made more careful in guarding well
ſlaves and cattle, which are kept for their own
oof.

one without any malitious deſign has done da-
e, he ought to ſhew himſelf ready at firſt to do or
orm whatever any wiſe arbiter ſhall judge reaſon-
, and to declare the innocence of his deſigns. If
as had an evil intention, and truly repents after-
ls of it; he ought alſo to offer compenſation, to
pardon, and give whatever ſecurity againſt future
ies a prudent arbiter ſhall think ſufficient. No man
repents of any injury he has done, nay he per-
in it, while he declines to do theſe things, and de-
the gain of his injuſtice. But when the injurious
all theſe things voluntarily, we are bound to be
ciled and to pardon them: which all of us ſhould
e more readily and heartily, that each one ſo of-
eeds to be pardoned, if not by his fellow-crea-
, yet by our merciful creator.

V. WHEN one obſtinately perſiſts in his injuries
won't deſiſt from his deſigns upon admonition, nor
r damages done; or refuſes to perform what we
have

* Exod. xxi. 28, 29. Inſtitutes. iv. title 8, 9.

have a perfect right to demand; not only our priv
intereſts, but the common intereſts, and ſafety of
requires, that the injuries intended ſhould be repe
by violence, and reparation of damage and whate
elſe is due to us by a perfect claim ſhould be obt
ed; and even ſome further evil inflicted on him,
the terror of which both he and others be reſtrai
from the like practices.

This violent defence or proſecution of our ri
is war. But as one grand view of conſtituting
power was this, as 'tis known to all, that the con
verſies of citizens ſhould be decided by impartial jud
and thus the miſchiefs prevented which might
from mens redreſſing themſelves under freſh impr
ons of injuries; very different rules of violent def
or proſecution muſt obtain according as men are e
in natural liberty or under civil government.

Wars are divided into *publick* and *private*.
former are ſuch as are undertaken by a *ſtate*, or i
name of a body of people: *private* wars are tho
mong private perſons. The publick wars are div
into the *ſolemn*, or theſe authorized on both ſide
the ſupreme powers of ſtates, upon ſome ſpecious
of right; and thoſe ſo authorized only on one
ſuch as the wars made upon bands of pyrates or
bers, or citizens making inſurrections; or what
called *civil wars*, between different parties in the
ſtate contending about ſome rights of the people,
the government.

We firſt treat of the *private wars* of men in
ral liberty. And the ſame reaſonings hold in

rs; ſince ſovereign ſtates and princes are with re-
ſt to each other in the ſame condition of natural
erty.

V. WE have already ſhewn that wars both publick
l private are ſometimes lawful, nay neceſſary for the
mmon ſafety. Nor do the ſcriptures prohibit them
ll caſes: as they plainly authorize civil power, give
magiſtrates the * *power of the ſword*, and praiſe
e eminent heroes in war.

In both kinds of war three points are to be ſettled:
juſt cauſes, the *term of commencing*, and the *term*
nding them, or the ſum of our demands in war.
en we ſpeak of theſe three in the wars of particu-
perſons, they are to be differently determined ac-
ding as the parties live in natural liberty or under
l government.

But we muſt always remember, that tho' we have
ived the very greateſt injuries from any perſon, yet
ought to maintain good-will toward him, and e-
deſire his happineſs, as far as it is conſiſtent with
of better men and of the community. All clemency
ſiſtent with theſe ends, toward even the moſt inju-
s, is what every man's heart muſt approve. When
efor any injury is deſigned or done to us, we ſhould
irſt all gentler methods, either to prevent it, or
in reparation of damage and ſecurity for the fu-
. Nor ſhould we judge that an unjuſt enemy has

* The *jus gladii* is well known to include both the power
apital puniſhment, and of defending a country by arms,
ng the Romans to whom the apoſtle writes, Ch. xiii. 4.
alſo Hebr. xi. 32, 33, 34. 1 Pet. ii. 13, 14.

forfeited all his rights, or that every outrage agai him is juſtifiable. That violence alone is juſt which neceſſary, or naturally conducive, to repell the inj ry, repair the damage, or obtain ſecurity for the ture. Any cruelty not requiſite for theſe ends is pla ly criminal and deteſtable; as it occaſions grievo ſufferings to ſome of our fellows, without any neceſſ for the intereſts of others; and is a precedent to li cruelties on other occaſions, even toward thoſe w have a juſt cauſe in war.

VI. THE *juſt cauſes* of beginning war in natural berty are any violation of a perfect right. There co be no ſecurity in life, none of our rights could be ſa were we prohibited all violent efforts againſt the in rious, and they allowed to paſs with impunity. B frequent repetition of even ſmaller injuries the great wealth muſt ſoon be exhauſted: and life muſt beco intolerable to innocent men if they are thus expo to the perpetual inſults of their petulant or inſol neighbours. Humanity may often perſuade a g man to overlook lighter injuries, which can eaſily be paired; if eſpecially, they proceeded from ſome ſudd guſt of paſſion in men who in the main parts of th character are good, and will ſoon repent of it. Yet man can juſtly claim ſuch patience toward himſelf fr others. There are ſome more rare caſes in which p haps it may be juſt to make war before any injury done or attempted: but of theſe hereafter. *

When therefor any of our perfect rights are vio ted, either by deſtroying or damaging our goods, refu

* Book III. ix. 2.

refuſing what we have a perfect right to claim; or when like injury is done to any innocent neighbour; 'tis awful, nay often honourable by force to compell thoſe who oppoſe us or our neighbour in obtaining our rights, to deſiſt from theſe injuries, and to perform whatever is due to us. We may ſeize the particular goods we have a claim upon; or if we cannot find them, ſeize any goods of the enemy ſufficient to compenſate all that's due to us. And in computing this, we ſhould include all our labours, and loſſes or expences occaſioned by the injury. Nay we may proceed further by way of puniſhment, or obtaining ſecurity for the future, as far as a wiſe arbiter will judge neceſſary: [but of this preſently].

In civil ſociety indeed, theſe injuries alone juſtify the violence of private perſons againſt any fellow ſubject who is amenable to laws, which may occaſion an inſeparable damage. The warding off, or the repairing of others ſhould be obtained in a more prudent way by the aid of the magiſtrate. But ſuch as can neither be prevented nor remedied this way, we juſtly may repell with violence. But if any one, who is as to right a citizen or ſubject, renounces this bond; or makes his attempts ſo ſecretly that there's ſmall hope of bringing him to juſtice; we have the ſame rights againſt him as if we were in natural liberty.* Such are all robbers and thieves in the night. Againſt other citizens our remedy muſt be obtained from judges or magiſtrates.

VII. THE term of commencing violence in liberty is when one either by expreſs declaration or any

* Exod. xxii. 2, 3. and ſome fragments of the 12 tables.

hoſtile action has diſcovered a fixed purpoſe of hu
ing us or any innocent neighbour; and won't de
upon admonition. We are not obliged to receive t
firſt aſſault; as it may perhaps prove fatal to us: n
need we wait till the injury is executed; which m
perhaps prove irreparable: and 'tis generally eaſier
prevent than to remedy. We may therefor juſtly p
vent and ſurprize ſuch as have formed and declar
ſufficiently their injurious deſigns of hoſtility.

The proper term of commencing in civil life a
violence that may be dangerous to others, is when t
aggreſſor has brought us into ſuch ſtraits that we c
neither retire without danger, nor obtain any aids fr
magiſtrates or our fellow-citizens.

VIII. THE term or bounds beyond which we ou
not to continue violence in natural liberty, are wh
the aggreſſor or the author of the injury either vol
tarily repenting, or compelled by force, deſiſts fr
injuring, and offers compenſation of all damages do
and ſuch ſecurity for the future as any prudent arbi
ſhall judge neceſſary. If he obſtinately refuſes th
things we may juſtly obtain them by force. Nay
common intereſt of mankind requires that ſuch as wi
out any plauſible ſhew of right, have done groſs in
ries, and given ſuch dangerous example to othe
ſhould be puniſhed in ſuch a ſevere manner as may p
bably deter not only themſelves, but all others fr
like crimes.

The ſame reaſons which juſtify the inflicting of
niſhments in civil life, juſtify it alſo in natural liber
tho' in this ſtate we cannot expect that puniſhme
ſh

ll be ſo effectually executed, or ſo prudently regula-
. Neither the grounds of puniſhments, nor the rea-
s of inflicting them, preſuppoſe civil power in the
ficter, nor civil ſubjection in the ſufferer.

Under civil government ſubjects ought not to con-
ue violence after they are ſecured from preſent dan-
. The reparation of injuries and precautions for the
ure are to be obtained by the ſentence of a judge,
not by the violence of the enraged parties. All
violence ſhould be with a view either to the de-
ce of our rights, or to ſome publick advantage.
at has not ſuch intention; and is accompanied with
red of the perſon, and joy in his miſery, is that
minal *revenge*, which is condemned both by the na-
l and chriſtian laws.

And further as rights reſpect not only our holding
poſſeſſing, but alſo our obtaining ſometimes from
ers ſome goods or ſervices: in natural liberty we
y uſe violence in purſuit of what is due to us from
ers, when they refuſe to perform voluntarily what
juſtly demand. But in civil life all ſuch proſecution
our rights ſhould be made by actions in law, either
debts, reparation of damages, or precautions againſt
nages apprehended; and theſe matters decided by
wiſdom of magiſtrates and judges: as muſt appear
m what was ſaid about the cauſes of war in natural
tty, and the ends of civil government.

IX. FROM theſe principles it muſt follow that ſuch
ls as are often practiſed among us, where the chal-
ger and the perſon challenged meet in a place ap-
nted, intending the death of each other, or what

may

may occaſion death, cannot be juſtified either in na
ral liberty or civil ſociety. Reaſon would always te
a far better method of defending and proſecuting
rights; firſt, by committing any diſputed point to
biters in natural liberty; and if either ſide declined
ſubmit to them, the other ſhould obtain the aſſiſta
of ſuch neighbours as the equity of his cauſe or reg
to the common ſafety can engage to his ſide, and m
open war in proſecution of his right. As to any
proaches or contumelies; the duel is often a fool
and often too cruel a method of refuting them.
fortune of the combat is often as blind and capric
as any: and death is too grievous a puniſhment for
probrious words. If one has hurt the character of
thers, either by falſe reports, or even by divulging
humanly, without any neceſſity, their ſecret vic
in natural liberty we may juſtly, with the aſſiſtanc
friendly neighbours, inflict ſuch publick puniſhmen
any wiſe arbitrators ſhall deem proper for the cri
And if in this ſtate any one has given full evidenc
an hoſtile intention to deſtroy us; we ſhould ra
take the ſafeſt way to prevent by ſurprize, or to
ſtrain him, in ſuch manner as our own and the comm
ſafety requires. Nay under civil government, we
not bound to avoid publick places, or neglect any buſi
which requires our appearing abroad, becauſe we kn
that one deſigns to aſſault us; unleſs either humar
or a regard to our ſafety move us to it. And if
are unjuſtly attacked while we are employed in
own lawful buſineſs, we may juſtly defend ourſel
even by killing the aggreſſor: and doing ſo is ofte

y uſeful ſervice to mankind. All this may be done hout any concerted duels.

But if the legiſlator has been ſo negligent of a moſt portant matter, as to appoint no ſuitable legal redreſs the citizens when injured in their characters by ca- nies or reproaches; and if that cuſtom prevails, ch took its riſe in the moſt barbarous and ſuperſti- s ages, that a man is deemed infamous, and always oſed to new inſults, and theſe generally approved if upon certain reproaches or contumelies utter- gainſt him, he does not challenge the author of n; which will be the caſe too with one who de- s to accept a challenge from any who imagine are injured by him. The larger ſhare of this is chargeable on the civil governors themſelves; the parties are not excuſable, eſpecially the chal- er. For a good man may generally find a better of vindicating his character, and even of ſhewing ortitude, if either there ariſe any publick wars, or is firſt attacked by violence.

here is indeed one caſe in which concerted duels be lawful on one ſide: * if a publick enemy of country, of ſuperior power, truſting to the va- of ſome champion on his ſide, offers to grant us onable terms of peace only upon the event of this mpion's being defeated by one of our ſide; or will the controverſy decided according to the fate of a combat. 'Tis no doubt fooliſh and inhuman to de controverſies this way, when it might be done by

* Grotius D. Jure B. &c. iii. 20. 43.

by arbitration. But if a more potent enemy will
conſent to any other way; 'tis a glorious action
our ſide, if one to prevent much blood-ſhed exp
himſelf for his country to this hazard, in which
country has better hopes of ſucceſs than any o
way.

CHA

CHAP. XVI.

TRAORDINARY RIGHTS IN CASES OF NECESITY, *and the* COMMON RIGHTS OF MANKIND.

T has been already frequently ſhewn that an immediate ſenſe generally points out and recommends ſeveral duties; and that there are different degs of them, in a certain ſubordination, ſome more, e leſs honourable; that the later ſhould give place he former, when they are inconſiſtent; and that ſupreme beauty appeared in theſe affections of ſoul ch are moſt extenſive, which ſhould therefor conl the narrower: and that in conſquence of this, he rights of individuals, and all the ſpecial rules ſe ſhould be poſtponed to the univerſal intereſt of Altho' therefor theſe practical concluſions called *ſpecial laws* of nature, which we are ſacredly bound l ordinary caſes to obſerve, point out what is almoſt inually the virtuous part; yet by an extraordiy change of circumſtances, it may become our du- act in a different manner; and ſuch ſingular s are to be deemed excepted in theſe ſpecial laws. never ſhould ſpeak thus, that in caſes of ſingular eſſity, we may juſtly violate the law of nature, or unjuſtly or vitiouſly: ſuch expreſſions are contraions. But it is truly obeying the law to take the eſit of any exceptions appointed in it; or to follow more ſacred law when it derogates any thing from

one of leſs importance. Now of all the ſocial la
that is the moſt ſacred, which prefers the general in
reſt and ſafety to that of individuals or ſmall partie

II. BUT as the ſenſe of every good man muſt ſh
it to be of high importance to preſerve the autho
of all the ſpecial laws, and that they ſhould be r
giouſly regarded; we cannot be juſtified in depart
from their appointment upon any light cauſes: the
ceſſity muſt be great and manifeſt which will juſtify
We muſt not only conſider cautiouſly what preſent
vantages may enſue in this caſe from ſuch a ſing
ſtep; or what preſent inconveniences from follow
the ordinary law; but much more what greater
heavier and more general evils may follow from ſ
a liberty allowed to all. Let us take an example or t
which may illuſtrate other caſes. As the maintainin
veracity and faith in our converſation and dealings
the higheſt importance to ſociety; as is alſo the m
taining the rights of property, and leaving to each
the free adminiſtration of his own, for the mutual c
fidence and ſecurity of men in ſociety: the cauſes m
be of the higheſt nature, ſome terrible evils to b
voided or exceeding great advantages to be obtai
which can be allowed to make exceptions from t
important rules. Nor ought this plea of neceſſity to
extended to lighter matters: for we ſhould conſide
the conſequences, even of a remoter kind which m
enſue upon diminiſhing the deep reverence men ſh
have for theſe laws. No caſes therefor but thoſ
the higheſt nature are to be deemed excepted; w
evils ſuperior to all theſe evil conſequences are to

aver

rted: and none will reckon among theſe, any or-
ary ones of a lighter nature, unleſs he is plainly
cked and impious, void of any conſcience of duty.
'Tis to no purpoſe to argue here, that we are to do
hing vitious for any proſpects of advantage. In this
agree. But the queſtion is, whether ſuch extraor-
ary conduct be vitious in theſe circumſtances, or
? It ſhould not be matter of heſitation, whether
may abandon the conſcientious part for the advan-
eous: but whether ſome great utility to enſue don't
ke ſome extraordinary ſteps lawful or honourable?
r is it more to the purpoſe to allege, that we ſhould
ays adhere to the divine laws, and that we are no
ges of future events, but ſhould commit them to
vidence. Such things are pleaded by ſome very
d men, tho' not very acutely in this point. For
very queſtion is, are not theſe caſes to be deemed
eptions in the divine laws? and made known to us
the ſame uſe of reaſon by which the law itſelf is
le known? If we are no competent judges of future
dencies, we are no judges about the ordinary na-
l laws; which are no otherways diſcovered than
our reaſoning upon the tendencies of certain me-
ds of action, as they appear conducive to the pu-
k intereſt or detrimental: for no man can allege
our ſole rule of life are the impulſes of each parti-
r paſſion which we may generally approve in or-
ary caſes.

No doubt wicked ſelfiſh men devoted wholly to their
intereſts or pleaſures will abuſe this plea; but not
out ſuch impiety and unfairneſs of mind as would

break through any bonds of laws. The paſſionate revengeful often abuſe the doctrine of ſelf-defence, that about proſecuting the injurious: but we do therefore quit this doctrine, and prohibit all violence in defence or proſecution of our rights. Nor ſhould any more condemn all departure in ſingular cafes from what the ſpecial laws of nature require in ordinary ones. Men ſeem agreed that the common rules of property yield to ſome ſingular exigences. One may ſpoil or deſtroy the goods of another without his conſent when 'tis neceſſary for the preſervation of multitudes, as in the lightening of ſhips in a ſtorm, or blowing down of a houſe to ſtop a raging fire. Nay ſome higher laws give way to ſingular neceſſities. The braveſt and beſt citizens are expoſed to certain death for their country, in ſervices where there can be no hopes of their eſcaping. By drawing a bridge or ſhutting the gates by which all the citizens have a right to be protected, the braveſt men are ſometimes expoſed to the cruel enemies. *Tullus Hoſtilius* is renowned to all ages for preſence of mind in delivering a falſe account, by which the Roman people were preſerved. But this doctrine ſo liable to miſapplication needs always the following cautions.

III. FIRST of all: the two general laws about loving God and our neighbour, or of promoting the general good of all, admit of no exceptions: nay in the latter are founded all the exceptions which lye against any of the more ſpecial laws. But the external acts of worſhip are not neceſſarily annexed to any one time, and therefor yield to urgent exigencies.

2. T

2. The more honourable any perſon's temper is, leſs apt will he be to allow to himſelf exceptions any ſmaller intereſt of his own, or to claim any pri-leges of neceſſity.

3. We muſt bring into account all the effects pro-bly to enſue from any extraordinary ſteps, whether natural conſequence, or from the unfairneſs or raſh-ſs of others. Not that men are to be excluded from ery right which unjuſt perſons may make a pretence in improper caſes: but even theſe bad conſequences to come into the general account, to prevent our owing exceptions in any but the moſt weighty caſes. that no man can plead exceptions in lighter ones, hout that depravity of mind which would break acknowleged law, without any ſuch pretence.

4. The more ſacred and important any law is, the ater muſt the cauſes be which can found any ex-tion.

5. Cauſes of a publick nature are far more honour-e than thoſe of a man's own advantage. A good n often may quit part of his own right; and 'tis en honourable not to take the advantages he might. he is not thus maſter of the publick intereſts, and ſt act according to what the exigence of the times uire.

6. No plea of neceſſity will juſtify a man in freeing ſelf from any threatening evil, by caſting the like greater upon any innocent perſon. This is plainly ſubſervient to any publick utility.

7. Whatever ſmaller damages we caſt on others o do not conſent to ſuffer them gratuitouſly, in order

order to free ourſelves from any great danger, we
ſacredly bound to repair. To this right in natural lib
ty, of warding off ſome great danger by actions de
mental to others, there correſponds in civil ſociety
eminent right in the ſupreme powers, of which he
after. *

IV. FROM the common bond of all with all,
which all mankind are conſtituted by nature one gr
ſociety, with ſome common laws binding them, th
ariſe certain common rights, not ſpecially regarding
utility of any one, or a few, but that of all in gener
which therefor every one as he has opportunity ſho
maintain and proſecute. Theſe rights as they obt
alſo in natural liberty, ſhould be conſidered previ
ly to thoſe of civil ſocieties. We ſhall give a few
ſtances, which will alſo lead us to others.

1. Mankind as a body, and each one as he has
caſion, have a right to hinder any one to quit life wi
out a juſt cauſe, or thus deſert the duties incumb
on him. Suicide ſhould therefor be prevented, or f
ſelf-maiming as may make one unfit for the duti
life.

2. There's alſo a common right of all, to prev
certain vitious practices of moſt pernicious exam
which yet cannot be ſaid to injure any one perſon m
than another: ſuch as monſtrous luſts, procuring ab
tion, or any other practices which are hurtful to m
kind in general.

3. We are likewiſe to hinder any man to deſt
ſuch goods of his own as may be very uſeful in h

* Book III. Ch. v. 4.

ut of any caprice or ill-nature: nay they ſhould not e allowed to periſh of themſelves without being uſed.

4. There's alſo a like common right of one and all, prevent injuries, and to puniſh ſuch as are done; ſo at by the terror of the puniſhment, others alſo may e reſtrained from like attempts.

5. Mankind have a right alſo to compell any per-n, who has diſcovered any ſecret of great uſe in life, divulge it upon reaſonable compenſations, and not fer it to periſh with himſelf; that ſuch as need it may o enjoy the benefit.

6. Mankind in general, and every ſociety, may juſt-require it of all ſuch as enjoy ordinary health and ength, unleſs they otherways have a fund for their pport, that they ſhould maintain themſelves by their n labour, and not intercept the liberality or charity good men; which is due only to the weak who not ſupport themſelves. Such ſlothful wretches are be compelled to labour.

The inſtances we have given are rights of the per-t kind belonging to mankind as a body. Imperfect hts of this claſs anſwer to the general duties of hu-nity and beneficence (above explained in treating the nature of virtue) which muſt be left free to the nour and conſcience of men.

CHAP.

CHAP. XVII.

How RIGHTS *and* OBLIGATIONS *ceaſe:* CONTROVERSIES *are to be decided in* NATU LIBERTY: *and the* RULES *of* INTERPRETATI

OBLIGATIONS ceaſe by three ſeveral ways: the *paying* or *performing* what was due; by *miſſion* in favour of the debtor; and by the *failin the condition.*

Payment may be made either by the debtor h ſelf, or any commiſſioned by him, or acting in his n and for his behoof; but it muſt be at the time place agreed on. Where payment is offered not by pointment of the debtor, nor for his behoof; the ditor is not bound to transfer his right againſt debtor to the perſon thus offering payment, who have ſome malitious intention againſt the debtor. W is here ſaid relates only to the delivery of com goods or money, or performing common labours or vices, in which 'tis no matter to the creditor pays him. The caſe is otherways in homages of nour, or ſuch labours as are valued on account of gular ingenuity. In theſe no ſubſtitution can be m without the conſent of the perſon to whom they due.

In money, or goods only regarded by weights, ſures, or quantities; if two perſons be mutually ind ed to each other in equal ſums, and the days of

nt on both ſides come, the debts mutually deſtroy ch other: and this is peculiarly called *compenſation.* y tho' the ſums are not equal, yet the debts ſhould deemed aboliſhed as far as the ſums concur, and the plus only to remain due.

To the ſecond way, to wit, of ſome remiſſion; are ducible all theſe *tranſactions* or bargains agreed to extinguiſhing diſputed claims: as alſo *delegations,* which the debtor with conſent of the creditor tranſs to him an equivalent debt due to himſelf: as alſo the forgiving of debts and accepting any thing in of them; and laſtly mutual diſſent of the parties, which the mutual obligations of a bargain are ta- away.

3. Under the head of the failure of the condition, ncluded the *perfidy* of one party in a bargain; which the other free, if he chooſes it, rather than to com- the perfidious to performance: as alſo a *change* of ; by which all obligations are made void which e plainly founded upon it: as alſo the *expiration he time*; which takes away obligations which were endure no longer: and laſtly *death* takes away ſuch only reſpected the perſons, and were not deſigned ubſiſt to the heirs of the creditor, or affect the heirs the debtor: and theſe points are generally known m the nature of the buſineſs, or the terms of the tract.

II. In natural liberty controverſies are beſt decided friendly conferences of the parties, or the interpo- of common friends; or by an abſolute *compromiſe* ſubmiſſion to arbiters of approved characters; and

this either as to the ſtrict point of right, or as to equitable and humane part on both ſides. Every g man would always chooſe to make ſubmiſſions of later ſort, and not inſiſt upon the ſtricteſt poin right.

The proper arbiters are perſons of wiſdom, unde ſpecial attachment to either ſide, and who can nothing by the deciſion of the cauſe in favour of ei party. Such men influenced by no intereſt or paſ tho' they be neither wiſer nor better men than parties contending, yet will more eaſily diſcern is juſt and equitable. The parties are bound to to their deciſion, unleſs they find evidence of cor tion, ſuch as ſome ſecret contract with one party unleſs there be ſuch manifeſt iniquity in the dec as muſt plainly evidence ſome fraud or unfairneſs. if it is only ſome ſmaller inequality or miſtake in deciſion, upon ſome ſhew of right, by which one ty thinks he is wronged, he is notwithſtanding bo to ſubmit to the award.

The arbiters ſhould proceed as judges do, to find the truth by the acknowlegements of the parties by ſigned deeds, or other ſuch documents: and to cite witneſſes, and interrogate them upon oath garding always this, whether the witneſſes be no gaged by intereſt on one ſide; and they ſhould mand two at leaſt to proceed upon. For tho' the dibility does not at all increaſe in proportion to numbers of witneſſes, and ſometimes the teſtimon one wiſe honeſt man gives full ſatisfaction; y would be dangerous to proceed upon the teſtimon

e: as a perſon of great hypocriſy and art and pre-
nce of mind may contrive ſuch a conſiſtent ſtory, that
o interrogatories put to him can detect the falſhood
f it, or make him contradict himſelf. But when two
more witneſſes, are ſeparately examined, without
earing each others teſtimonies, about all ſuch circum-
ances as might have been obſerved by perſons really
reſent, (of which a vaſt multitude may occur to a ſa-
acious judge); if they either frequently contradict
ch other; or both always remember the ſame cir-
umſtances, and both always pretend to have forgot
overlooked the ſame circumſtances, they give plain
vidence of a concerted fraud. [A compleat conſiſten-
therefor of two thus examined, gives abundant e-
idence.]

III. For diſcovering the true intent and meaning
promiſes, contracts, teſtaments, and written laws,
e proper rules of interpretation are often uſeful. But
ey belong rather to the art of criticiſm than to mo-
ls; as they are not peculiar to theſe matters.

1. We muſt ſtill remember that ſuch as profeſs to
ntract with others, and uſe ſuch ſigns as common-
expreſs contracting, are to be deemed bound, what-
er way their mind was then employed: nor other-
ays could there be any faith in commerce.

2. The ſenſe of common *popular words* is to be de-
rmined by cuſtom, without regard to original mean-
gs or etymologies; unleſs there appears evidence that
ey were taken in an unuſual ſenſe.

3. *Terms of art* are to be underſtood according to
e definitions of the artiſts.

4. Where the different parts of any deed relate the ſame thing; the ambiguous or obſcure are to cleared up by the more plain and diſtinct.

5. If words taken in their ſimple and unfigured ſe import ſomething contradictory and abſurd, but when interpreted as figurative; they are to be de ed figurative.

6. In deeds which convey no right in their p parts to ſuch as don't alſo conſent to the ſubſeque the ſubſequent limit the preceeding. This hold the different parts of teſtaments, and in different d made between the ſame parties.

7. There are alſo juſt conjectures of interpreta to be derived from the *ſubject-matter*, the *circumſ ces*, *effects*, or *conſequents*. For that is probably true interpretation which ſuits the ſubject-matter circumſtances, or which involves no abſurd conſequ ces.

8. Contracts are beſt explained from knowing views of the parties; and laws in like manner from reaſon or deſign of them.

9. We are alſo to regard whether the matter b a *deſirable* or favourable nature, or on the contrary deſirable or odious; for accordingly we give a la or more confined ſenſe to the words.

IV. But where all or any of the contending ties in natural liberty, truſting to their own ſtreng and each dreading the intereſt or art of his adve ries in influencing any arbiters they might chooſe, clines to compromiſe; there remains no other re dy than that each defender proſecute his right by cle

lence, with what aid he can get from his neighbours: and by this means multitudes muſt often be involved in great inconveniences and dangers. Now 'tis probable, that in order to avoid theſe miſchiefs, and to ſet large ſocieties regulated by the authority of a few of the wiſer ſort, in the deciſion of their debates, and the exerting their united force for the common ſafety of all, men have had recourſe to a political union and a civil power.

THE

THE ELEMENTS OF MORAL PHILOSOPHY.

BOOK III.

THE PRINCIPLES OF OECONOMICKS AND POLITICKS.

CHAP I.

CONCERNING MARRIAGE.

WE have in the former book treated of the rights and obligations of that *ſtate of liberty conſtituted by nature*. We proceed to the *adventitious ſtates*, founded upon ſome human deed or inſtitution.

Theſe ſtates are either *domeſtick*, regarding the utility of a few, ſo many only as can ſubſiſt in one family; or *publick*, reſpecting the utility of a whole nation or ſtate, or even of many ſtates.

Oeconomicks treat of the rights and obligations in a family; the chief points of which are delivered in theſe

theſe firſt three chapters. There are many other ventitious ſtates of perſons united in ſome narro communities or corporations included within ſome litical body, and ſubject to it; of which there are numerable multitudes, which are not under the co ſance of philoſophy.

II. ALL kinds of terreſtrial animals muſt have ſiſted only for one age, if nature had not conſul their preſervation by a difference of ſex, a deſire of ſpring, and a tender care of it till it can ſubſiſt by ſelf. In the brute animals nature has done little mo as their young can be ſufficiently preſerved and re ed by the care of their dams, ſince they need ſcarc ny inſtruction for their ſimple ways of life. Nat finds all the clothing and armour they need; and earth of itſelf ſends up their food in abundance. for the improvement and even preſervation of hum life a multitude of arts and inventions are neceſſa as their bodies are more delicate, needing nicer fo and clothing, and other care; and their minds capa of many delightful arts. Their offspring therefor, the wiſe order of nature, continues far longer ten and infirm, needing the conſtant care of the adult; t thus they may be more eaſily governed and inſtruc in the various arts of life, before they acquire untr table ſtrength.

Now as the mothers are quite inſufficient alone this neceſſary and laborious taſk, which nature alſo plainly enjoined on both the parents by implanting both that ſtrong parental affection; both parents bound to concur in it, with joint labour, and uni

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s for a great ſhare of their lives: and this can ne- be tolerable to them unleſs they are previouſly uni- in love and ſtable friendſhip: as new children alſo l be coming into life, prolonging this joint charge. engage mankind more chearfully in this laborious ice nature has implanted vehement affections be- en the ſexes; excited not ſo much by views of bru- leaſure, as by ſome appearances of virtues, diſplay- their behaviour, and even by their very form and tenances. Theſe ſtrong impulſes plainly ſhew it to he intention of nature that human offſpring ſhould ropagated only by parents firſt united in ſtable dſhip, and in a firm covenant about perpetual co- tation and joint care of their common children. ll true friendſhip aims at perpetuity: there's no dſhip in a bond only for a fixed term of years, or e depending upon certain events which the utmoſt ty of the parties cannot enſure.

II. THIS natural love of the ſexes, and equally na- love of offſpring, ſhew that *Plato* and ſome other lent writers are juſtly cenſurable, for departing udaciouſly from nature, in appointing their ſtates e ſupplied in new ſubjects by children unknown th the parents; and this in order to prevent ſome which may be prevented in a much more eaſy

e Plato's ſcheme in his books *de Republica*. The evils d by his ſcheme, are avarice, and injuſtice; vaſt e- and the attendant power and influence, deſcending to leſs heirs; the employing mens affections upon the fied ſyſtem of a family or two, which otherways be extended to the whole ſtate: and thence many diſ- ns and factions.

and gentle manner. For never could any laws or
tutions have ſuch influence, that perſons quite u
tain about their offspring, and hence not influenc
the natural affection, would take a proper care o
young. Or if they were compelled effectually, t
bour would be moſt diſagreeable to them, which
rents aſſured of their own offspring is light an
lightful. And further while their offspring is unk
men want one of the ſtrongeſt incitements to al
gence and induſtry. Nay further Plato's ſcheme,
out any ſufficient reaſon or criterion that one ca
derſtand, is only calculated for the happineſs
few finer ſpirits; while the plurality are ſubjecte
miſerable ſlavery.

Nay further; theſe inconveniences he dre
much from each one's knowing his own children,
be prevented another way, by proper laws an
blick inſtitutions about education, teſtaments, an
ceſſions. Nor can we aſcribe the factions which
tear ſtates to pieces to our knowing the tyes of
as one may eaſily ſee in all nations. He ſhou
have prevented all particular friendſhips; or ſhew
men have much ſuperior ſagacity in the cho
friends or of ſtate-parties, than he allows them
the education of children, or the love of kinſm
in making their teſtaments.

As to the apprehenſion of danger from this, th
ny very weak men by means of the tender pare
fections come into great wealth, 'tis without g
The offſpring of the weak is frequently very vig
and that of the vigorous weak, both in mind a

. Nor is it neceſſary for any ſtate that all its mem-
rs ſhould be either robuſt or ingenious. And ſometimes
e fineſt genius is lodged in an infirm body.

IV. WE muſt not therefor through fear of a few
conveniences counteract what nature has ſo ſtrongly
commended: but rather look upon all ſuch deduc-
ns of reaſon, as ſhew how a faithful friendſhip may be
intained in wedlock, for the proper education of off-
ring, as ſo many ſacred laws of nature. Men ought
reſtrain not only all monſtrous luſts, as outrages a-
inſt God and nature, but alſo all diſſolute procrea-
n without any proper covenant about a friendly ſo-
ty for life. For if ſuch indulgence were allowed to
, it muſt deſtroy both the bodies and minds of the
uth, produce a race deſtitute of all paternal aſſiſtance,
l expoſe the incautious mothers to infamy, pover-
and a perpetual courſe of debauchery, without any
es of ever attaining any reputable ſtate in life. It
re to be wiſhed that an equal infamy attended the
er ſex, the common authors of or ſolicitors to ſuch
es.

Such adult perſons as have a ſufficient ſtock both of
alth to ſupport a family in their condition of life,
of prudence to govern it, ſeem obliged to marry,
eſs they are hindered by ſome important offices in-
ſiſtent with the cares of a family. It would be diſ-
ourable for one without a weighty cauſe to decline
ſhare of the cares and ſervices requiſite for the pre-
ation of the human race.

V. THE chief articles in this covenant are theſe.
" That the woman be faithful to the man in coha-

" biting with no other;" as it muſt be the great injury to impoſe upon him an adulterous offspring, heirs to his fortune, and objects of that affection wh is naturally due only to his own.

2. The ſecond is, " that the husband ſhould be " qually faithful to the wife." For it is a natural i quity that the wife's conjugal affection, and all cares and fortune, ſhould be devoted to one man a his offspring; while the affections of the husband allowed to be intercepted by, or diſperſed among veral women and their children, and along with it fortune.

Simultaneous polygamy is not to be allowed to m not only on account of the inequality or iniquity n mentioned, but becauſe it alſo deſtroys all friendſ in marriage; muſt be the cauſe of perpetual conten ons; muſt tempt women ſo injuriouſly treated into dulteries; muſt corrupt the minds of men with wa dring luſt, deſtroying their natural affection to th children; and muſt occaſion to ſome an offspring t numerous, which therefor will be neglected, and be v of all ſenſe of duty to ſuch diſſolute parents. And furth ſince providence preſerves the numbers of males at le equal to that of females, if 'tis allowed to men to ha more wives at once, many muſt be excluded altog ther from marriage or having offspring; and thus free from theſe tender bonds which chiefly civilize a unite men in ſociety: nor does polygamy contribu to make nations more populous, but has rather t contrary effect.

3. The third article is that perſons married ſhou

a perpetual union of intereſts and purſuits, conſult e proſperity of their family, and chiefly the right e- cation of their common children, and the improv- g their condition as they have opportunity.

That we may be the better fitted for obſerving theſe icles, from our infancy we ſhould be enured to mo- ſty and chaſtity; an high ſenſe of which is deeply ed by nature in the fineſt ſpirits. All obſcenity and ſciviouſneſs in diſcourſe or behaviour is deteſtable; it relaxes theſe bonds of modeſty by which the young, d women eſpecially, are reſtrained from expoſing emſelves to all infamy and miſery.

4. The fourth article is, "that the bond be per- petual, to end only by death." This is neceſſary to ke marriage a ſtate of friendſhip; as alſo generally r the right education of children, who are ſucceſſive- born to us for a conſiderable part of life; and this ing duty or charge is impoſed by nature equally on th parents. It would alſo be moſt inhuman to di- rce or ſeparate from a faithful and affectionate con- t for any cauſes which include no moral turpitude; ch as barrenneſs, or infirmity of body; or any mourn- accident which no mortal could prevent, and which uſt be equally afflicting to the perſon abandoned, the ath of all the common children.

As to any proper power, or right of commanding, ſted in either of the parties, it ſeems oppoſite to that der affection the ſpring of marriage; which rather ints out an equal friendly ſociety. Nor ſeems there y other reaſon for giving any ſuperiority to the hus- nds, except this, that men are generally more fit for managing

managing the more important buſineſs of the fam
to which the leſs important within doors ſhould g
place.

The four articles above mentioned ſeem ſo nec
ſary, that no covenants of the parties in oppoſition
them can be valid *. Marriage therefor may be
fined "a covenant between a man and woman ab
"perpetual faithful cohabitation and joint care of th
"common offspring."

VI. THE *impediments* of marriage are either ſu
as are deemed to make the contract from the firſt vo
or, afterwards make void a valid contract. Of the f
mer claſs ſome are natural and ſome moral.

Among the natural impediments, beſide a mani
bodily weakneſs rendering one unfit for marriage, m
be reckoned alſo ſome grievous diſorders and miſera
incurable diſeaſes, inconſiſtent with a friendly ſocie
or excluding all hopes of offspring that can live. Su
as idiotiſm, and perpetual madneſs, leproſy, and ſo
oth

* If any one in this matter inſiſts that ſimultaneous po
gamy was allowed in ſome civilized nations; let him
member that ſo were alſo human ſacrifices, and a cert
ſort of ſlavery manifeſtly iniquitous and inhuman, in
more civilized nations. And tho' a plurality of wives
allowed by the Jewiſh law; yet a far purer inſtitution
forms us, that it was permitted for *the hardneſs of their hea*
or only allowed to paſs with impunity, but not approv
The *concubinage* both in Heathen Rome and under the C
ſtian empetors was allowed only to ſuch as had no wi
and was a marriage naturally lawful. See *Heineccius' anti*
ties, in the appendix to lib. i. c. 38. and the follow
ones.

other diſeaſes. Very advanced years of either ſide may juſtly be deemed to make void a marriage with one in the bloom of life. But if a couple both well advanced in years, covenant about a conſtant cohabitation, there's nothing blameable in it. A third impediment is, when either party is ſo young that they cannot have attained that uſe of reaſon which is neceſſary to their binding themſelves by any contract. For it would be moſt abſurd that perſons who becauſe of their immature years are deemed incapable of binding themſelves in any other matter, yet ſhould be deemed capable of it in this, which is far more important than any other, and requires greater judgment.

The moral impediments which make void the contract from the firſt are *prior contracts* with others, and *too near conſanguinity* or *affinity*.

As to the former: if two perſons both apprized of the prior contract with another join in marriage, the marriage ſhould be deemed entirely void; and both parties ſhould be ſeverely puniſhed. Where one of the parties was not apprized of the contract; the caſe of this perſon is ſo favourable, that the marriage confirmed by cohabitation ſhould not be made void unleſs at the deſire of this perſon: even as in other contracts, ſubſequent real rights take place againſt prior perſonal ones: but the guilty party deſerves ſevere puniſhment. And that there may be no room for ſuch frauds even after complete marriages, every ſtate ſhould take care that all marriages intended ſhould be previouſly advertiſed and ſuch as are celebrated alſo be divulged in the moſt publick manner.

As

As to *conſanguinity* invalidating marriages, there are higher debates. Among parents and children in the *direct line*, the law of nature ſeems to prohibit all marriages; not only on account of a conſiderable difference of years, but becauſe the conjugal affection and intimacy ſeems quite inconſiſtent with that reverence implanted by nature toward parents and confirmed by education. As to the inter-marriages of kindred in the *tranſverſe line*, or collaterals, the natural reaſons offered by ingenious men don't ſeem concluſive to prove ſuch marriages pernicious or impious. But as we find that many nations who derived nothing from the * Jewiſh laws, held the ſame marriages of collaterals inceſtuous and impure; 'tis not improbable that they have been prohibited by ſome poſitive divine law in the earlier ages of the world; and that ſome veſtiges of this law was preſerved in many nations. The intention of this law has probably been to diffuſe further among many families that good-will and endearment which frequently ariſes from conſanguinity and affinity. The Deity may alſo have had in view ſome other advantages to human offſpring to ariſe from ſuch intermixtures of different families.

By the Roman law, and the cuſtoms of all Chriſtians, marriage is prohibited to all within the *fourth degree*. And the degrees are thus computed. Perſons a-kin have had ſome common parent: and as many generations as have interveened on both ſides from this ſtock,

* See Levit. xviii. and Tacitus's Annals. 12. 5. Digeſt. 33. t. 2. l. 17. and laſt. and Lib. 39. l. 53. and Grotius. ii. 5. 12.

ck, ſo many are the degrees. In like manner a man prohibited to marry any ſuch kinſwoman of his for-r wife, as of his own; to wit, within the fourth gree. The canon law retaining the ſame words, has extended the prohibitions much further; as it com-tes the degrees according to the generations in one the lines only; and by the longer of the two, if y are unequal: and thus prohibits all marriages hin the ſeventh degree of the civil law.

VII. THE cauſes which break off a valid marriage , any violation of the eſſential articles: ſuch as a-tery, obſtinate deſertion, capital enmity or hatred, ſuch groſs outrages as take away all hopes of any ndly ſociety for the future. When a marriage is olved for ſuch cauſes, the guilty party and the aſſo-te in the crime deſerve the higheſt puniſhments; as e injuries in marriage do greater miſchief, and cauſe per diſtreſs than ſtealing or robbery, for which ca-l puniſhments are inflicted. The innocent party uld be allowed to marry again: for it would be ngely inhuman becauſe one has ſuffered injury, that law ſhould inflict another hardſhip, by depriving m of a new marriage and offspring. Nay if the lty parties are allowed to live, they ſhould not be dered from marrying, except it be with the part-s of their guilt. They ſhould rather be obliged to ry perſons equally infamous with themſelves.

The prohibitions in the goſpel of all divorces ex-t in the caſe of adultery * ſeem *elliptical*, as thoſe ich prohibit all uſe of oaths. They only condemn

* Matth. v. 32. Luke xvi. 18.

all the cauſes aſſigned by the Jewiſh doctors, exc
that one. The apoſtle Paul * expreſly allows anoth
and that for manifeſt reaſon, to wit, obſtinate de
tion.

The duties of perſons married conſiſt chiefly in
faithful and conſtant affection, ſweetneſs of manne
and prudent care of their families; and to this purp
'tis neceſſary they improve their minds in all virt
eſpecially in meekneſs and calmneſs of temper; t
they may reſtrain ſuch paſſions as their family-affa
will be apt to excite. Without theſe virtues a co
nual ſociety and community of all things can never
tolerable. As to the ways of improving their fortu
this they muſt learn from other arts, and not from p
loſophy.

* 1 Corinth. vii. 15.

CHA

CHAP. II.

The DUTIES *of* PARENTS *and* CHILDREN.

AS human offspring remains for a long time infirm, incapable of preſerving itſelf, needing the conſtant care of others, both for preſervation and inſtruction in theſe arts and manners which are neceſſary for life; nature has plainly impoſed this charge upon the parents by that ſingular affection implanted in them. Nature therefor muſt have deſigned that parents ſhould aſſume all the power which is requiſite for the diſcharge of this truſt, and ſubjected children to it; while at the ſame time by this tender affection ſufficient precaution is taken for the childrens obtaining their liberty as ſoon as they can ſafely enjoy it; ſince without it they cannot be happy, which is the point that parents are moſt ſolicitous about.

The want of judgment in our immature years, and the tender parental affection, the two only foundations of parental power, ſhew that it cannot be perpetual or during life; but muſt expire as ſoon as children grow up to mature ſtrength of body and mind. And yet the parental affection will always remain, exciting parents to all kind offices, when their children need their aſſiſtance or counſel.

The ſame conſiderations ſhew that this power cannot be extended to any of the more grievous puniſh-

ments, ſuch as cannot be requiſite for education in ſ
tender years: much leſs can it extend to life or lib
ty. A parent has no right to ſell his child to perp
al ſlavery, or to lay any burden upon it beyond the
lue of the neceſſary and prudent expences of its e
cation.

II. THIS parental power belongs alike to both
rents, only that in domeſtick affairs the power of
father is a little ſuperior. But if he is dead or abſe
it is wholly veſted in the mother.

'Tis trifling to found this power merely in gene
tion *, or to follow ſome law-maxims about the go
formed by our labour out of our own materials, o
ther acceſſions of things animate or inanimate, wh
have no uſe of reaſon or no capacity of holding
rights. Both the bodies and ſouls of children are f
med by the divine power, that they may, as they g
up, arrive at the ſame condition of life, and an eq
lity of right with ourſelves, tho' for ſome time t
muſt be governed by the wiſdom of others. For c
dren may have property, and other rights, quite in
pendent of their parents; who ſeem to have no ot
power over any goods conveyed to their children
others than that of tutors or curators. Whatever
rents abandon this guardianſhip of their children co
mitted to them by nature, either by expoſing or int
ly neglecting them, forfeit alſo the parental po
connected with it: and any one acquires the wh
parental power who takes care of ſuch children.

Pare

* This is deſigned againſt *Hobbes* and *Filmer*.

Parents are moſt ſacredly obliged to provide for their ildren all the neceſſaries of life, and even to improve ir condition as much as they can; and above all to m their manners to all virtue by inſtruction and exple: for without this their lives muſt be miſerable d infamous, tho' in the greateſt affluence.

What parents expend on children who have no ſtock their own, is juſtly preſumed to be donation: and would be inhuman in parents, who are not in great treſs, to charge food, clothing, and neceſſary edution, as a debt upon their own children. But if the rents are in great diſtreſs, or if any one of their chilen have a ſtock derived from ſome other friend, pants may juſtly ſtate ſuch an account with their chilen, and exact payment from them of all the prudent pences made upon their education; and children this caſe are bound to make ſuch payment either by ir labours or otherways. Altho' therefor from the mmon affections of parents we juſtly conclude, that ir private fortunes are acquired for their children well as themſelves; whence appears the right of ildren to ſucceed to the inheritances of their pants; yet children are not to look upon themſelves leſs bound to gratitude on this account: nay they rather the more bound. For the more firm and intereſted any affection is, and the more deeply is rooted in the perſon's nature, the more it is to valued, and the ſtronger is our obligation to gratude.

III. PARENTS may acquire by civil law a further power

power over their children, as the law commits po
to any magiſtrates. For civil power having differ
foundations and greater ends, extends beyond the
rental. And children, as they have from their b
enjoyed protection and the other advantages of a c
lized life in a ſociety conſtituted for the good of
are plainly bound to perform to the community
their part * all that's due from good citizens;
particularly to preſerve that conſtitution, and tran
the ſame to future ages. Minors therefor may ju
be delivered as hoſtages, or be obliged to military
vices of the greateſt danger in great exigences.

IV. CHILDREN even when adult owe all revere
and gratitude to their parents, not only in return
benefits received, which ſcarce any duty of theirs
ſufficiently compenſate; but alſo out of regard to G
by whoſe providence it was ordered, that we deſce
ed from ſuch parents, united with them in tyes
blood and natural affection, and an habitual revere
from our cradles. They ought therefor to bear w
patience any weakneſſes or froward humours of a
parents, as the parents long bore their childiſh foll
Particularly 'tis the duty of children to conſult the
tisfaction of their parents in entring into marria
ſince the parent is alſo deeply concerned in this imp
tant ſtep; by which their children enter into a ſt
ſociety for life with others, from whence muſt p
ceed grandchildren to their parents, to ſucceed ſo
ti

* See Book II. ch. xiv. 2. of obligations reſembling t
from contracts: and the following ch. v. 2.

es to their names and fortunes, and always to their dereſt affections.

After the proper parental power expires, there ofſucceeds that of the *head of a family*; which is ſuch extent as the domeſticks make it by their own ſent expreſs or tacit, by voluntarily continuing in, entering into, a family, where they knew ſuch a gree of power was aſſumed.

CHAP.

CHAP. III.

The RIGHTS *of* MASTERS *and* SERVANTS.

WHEN mankind were conſiderably multipl
there would be many who had no other f
of ſupport than their labours; and others of gre
opulence, who for their eaſe would need much of
labours and ſervices of others. And hence the rel
on of maſter and ſervant would ariſe, founded on ſ
contract. Nor is it of conſequence whether ſuch c
tracts at firſt were for life, or only for a certain te
ſince excepting the point of duration, the rights
obligations were the very ſame. The points follow
are of more conſequence.

1. The labours of any perſon ſound in body
mind, are of much more value than the bare ſim
food and clothing of a ſervant; as we plainly ſee t
ſuch can purchaſe all this by their labours, and ſo
thing further for the ſupport of a family, and even
ſome pleaſure and ornament. If any one therefor
incautiouſly inſiſted for no more in his contract; ye
the contract is plainly onerous, he has a right to h
this inequality redreſſed. *

2. Where the labours were not ſpecified, the
vant is deemed to have engaged only for ſuch as
of humanity in ſuch ſtations commonly exact from th
ſervants; and to have ſubmitted only to ſuch coe

* Book II. xii. 4.

of his maſter as is neceſſary for the good order of mily, if he ſhould neglect his work or misbehave. he retains all other natural or acquired rights.

3. If indeed the cuſtom is known to have obtained, heads of families aſſume a ſort of civil power o- their domeſticks; the ſervant is juſtly deemed to e conſented to this alſo, as far as it is managed con- ntly with humanity. The ſervant is bound to per- m his work; but retains all the rights of ſubjects er civil government; particularly all ſuch as are na- lly unalienable: and may juſtly defend them, even violence, againſt any invaſions of them by his ma-

4. Where the ſervices have been ſpecified in the tract, the ſervant is bound to no other. Nay tho' y were not, and the contract was perpetual or for yet the maſter cannot transfer him to another bout his own conſent; ſince 'tis of high importance he ſervant what maſter he is ſubjected to, and in t family. And for the children of ſuch ſervants y are all born free.

II. HITHERTO we have treated of ſervice found- on contract. But there is a far worſe kind, to wit, thoſe who for ſome great damage done, which they no other way repair; or on account of ſome great me, are adjudged by way of puniſhment unto per- ual labours to others.

And yet even in theſe caſes, they don't loſe all the hts of mankind, but only ſuch as are naturally fit compenſate the damage, or are eceſſary to give urity to the publick againſt like injuries for the fu-

ture. If the lives even of the worſt criminals are ſpa
after they have endured all ſuch publick puniſhm
as the ſafety of ſociety may require, 'tis unjuſt to
them with any further cruelty; provided they are
ling to perform the labours they are condemne
And they have a right to defend themſelves eve
violence, againſt new injuries, or violations of any r
ſtill remaining to them. But as ſlavery of this ki
conſtituted ſolely for the behoof of others; the m
may transfer to another ſuch a ſlave without his
conſent. But no cauſe whatſoever can degrade a
onal creature from the claſs of men into that of b
or inanimate things, ſo as to become wholly the
perty of another, without any rights of his own.

Nations in other reſpects not barbarous, conden
all captives in war into this moſt miſerable con
on; eſtabliſhing an inhuman law even againſt th
ſelves, and ſtrangely conſpiring to ſubject themſe
and their poſterity, upon many very poſſible con
gencies, to the moſt miſerable and ignominious t
ment. Upon which ſubject the following maxims
juſt.

1. Whoever makes war without a juſt cauſe acq
no right by ſuch violence, over either perſons or g
taken, which he can uſe with a good conſcience,
he may detain them with external impunity, as
ſhall ſhew hereafter. *

2. One who has a juſt cauſe, yet ſhould ſet
bounds to his demands: nor can he demand any th
from the conquered except either under the name
puniſhm

* See the following ch. IX. 4.

ishment, reparation of damage done, or *precaution* inſt future injuries *.

3. None are puniſhable but ſuch as either by ſome ion or omiſſion, contrary to their duty, have occa- ed and contributed toward theſe injuries done to y the war. And 'tis plain, this is ſeldom ever the of the far greater part of the adult ſubjects of a- ſtate, who are capable of a ſhare in publick affairs; to ſpeak of women and children, who make three rths of every people, and ought to be deemed joint prietors with the heads of families in their private perties. And tho' all heads of families payed tri- es toward maintaining the war; this can't be deem- a crime in them, as they were under the immedi- diſtreſs of their governors, who would otherways e levied theſe taxes by force, and puniſhed the re- ctory. Grant they had conſented to the war, fol- ing ſome ſpecious reaſons publiſhed by their gover- s; their ignorance generally was invincible: nor their conſent of ſuch importance as to cauſe the r, nor would their diſſent have prevented it. Nor we ever ſuppoſe that any political union can tranſ- the guilt of one perſon upon another who did not ncur with him.

4. Nay the very ſoldiers, all ſuch at leaſt as had ſhare of or influence in the publick councils, as they liſted upon preſumption of being employed only in

* See Book II. xv. 5, 8. On this ſubject of ſlavery ma- juſt reaſonings are to be found in Mr. *Locke*'s 2d. book government; and Mr. *Carmichael*'s notes on *Puffendorf*, ook II. ch. iv.

juſt cauſes, or perſuaded by ſuch reaſons as their
vernors publiſh; they are excuſable entirely, both
account of ignorance and neceſſity. To men once
liſted 'tis a capital crime to diſobey orders. It
therefor be exceedingly inhuman to inflict any th
ſevere upon them by way of puniſhment, provided
can be ſecured againſt further dangers from them:
this we always may be from captives, by keeping th
in our own country, and mixing them with our
zens or our colonies, without depriving them any
of their liberty. All this not only humanity will
commend, but a conſideration of the uncertain a
dents of war, and the inconſtancy of fortune.

5. Under pretence of repairing damages, the
queror can demand nothing from the innocent citize
except upon the ſame grounds that one demands it
damage done by another's ſlaves or cattle, to wit t
"that, whoever contrives or procures any thing
"his own utility, by which others without their f
"receive hurt, is bound either to repair the dama
"or deliver up the goods, or contrivance whatev
"was, to the perſon injured." The conqueror
therefor juſtly demand from the conquered citize
that they abandon their unjuſt governors the ca
of the war; or that they oblige theſe governors to
pair the damages; or that they repair them themſelv
and theſe three ſhould be left to their choice. T
holds moſt evidently as to theſe firſt citizens who
firſt conſtituted the government; or thoſe who ha
great power in the ſtate, by whoſe council the war w
undertaken; or who have it in their power to reſtra
th

ir princes in their unjuſt deſigns. As to others who of no weight in publick affairs, their plea againſt n compenſating of damages is more favourable.

6. But as ſoon as the defeated have repaired all da-ges, or the conqueror has obtained reparation to mſelf by force and military execution; and has alſo ained ſecurity againſt future injuries, ſuch as a wiſe bite: judges ſufficient, he has no further demand up- the innocent citizens. Now he may obtain all this a much eaſier, and more merciful way, without de-iving the innocent citizens of their liberty. The go-mors are in the firſt place bound to repair all da-ges, and the citizens only in the ſecond place when ir governors cannot do it, or decline it.

7. The children of ſlaves of any ſort are all born e *, as we ſhewed above.

8. Whoever purchaſes a perſon for a ſlave, or de-ns him as ſuch, is always bound to ſhew that this per-n was deprived of his liberty upon ſome juſt ground. he original proprietor of the matter in queſtion is al-ys at hand: ſince nature made every man maſter himſelf, or of his own liberty. 'Tis plainly there-r incumbent upon the violent poſſeſſor to prove his le; and not upon the perſon deforced, and claim-g his liberty, to prove a negative, that he did not fe, or forfeit his liberty. [Without a previous inqui-y of this kind no man can in this caſe be a fair pur-haſer.]

9. Nor is it juſtly pleaded here, that captives would be

* Book II. xiv. 3. See Mr. Locke on govern. Book II. alſo *Hooker's. Eccleſ. Polity*, and *Sidney* on *Government*.

be put to death if they could not be made ſlaves a
ſold as ſuch: and that therefor they owe their li
and all to the purchaſers. But ſure no higher ſort
title ariſes to the purchaſers in this caſe, than to ſu
as have done any other uſeful ſervice of equal imp
tance; ſuch as, reſcuing a fellow-citizen from robb
or murderers, ranſoming them from pyrates, cur
diſeaſes or wounds which without the aid of art wo
have been deadly. All ſuch perſons ſhould have all e
pences refunded to them, and a generous compenſa
on for their labours and art. But who ever alleg
that they could claim the perſons they thus ſerved
their ſlaves?

III. As it is the duty of ſervants who are juſtly ſu
jected to others, to perform their work with diligen
and fidelity; regarding God the common maſter of a
who is ever preſent with us: ſo 'tis the duty of m
ſters to exact no more from ſervants than what th
have a right to, and to abſtain from all cruelty and i
ſolence; as it becomes thoſe who remember that
are of one blood, and naturally allied to each othe
and that fortune is inconſtant, that the ſouls and b
dies of ſervants are of the ſame ſtuff with our own, a
of a like conſtitution; and that all of us muſt give a
account of our conduct to God the common Parent a
Lord of all.

CHA

CHAP. IV.

The ORIGINAL *of* CIVIL GOVERNMENT.

HAVING finiſhed the account of domeſtick ſociety, we proceed to ſhew the origin and rights of il ſociety, [in which 'tis univerſally underſtood, ere is included a right veſted in ſome perſon or coun- to decide all controverſies ariſing amongſt large nu- erous bodies, to direct the actions of all for the com- on intereſt, and to compell all by force to obey their ders.] By the aſſociations already explained, if all en were faithful in diſcharging their duties, human e muſt have ſufficient affluence and pleaſure. It muſt erefore have been ſome fear of miſchiefs to ariſe ei- er from the weakneſs or vices of men, which has oved them to ſubject themſelves to civil power. But e muſt not therefor, call civil ſociety *unnatural* or ntrary to nature. For whatever that reaſon, nature s endued us with, ſhews to be neceſſary or very con- cive to obtain thoſe advantages we naturally deſire, avert the contrary evils, muſt plainly be deemed na- ral to a creature endued naturally with reaſon and rethought. Men therefor are juſtly called " creatures ted by nature for civil polity."

Let us ſuppoſe all men ſo juſt that none would do o others any thing he judged injurious, but that they e pretty liable to miſtakes about their own and o- ers rights, through their ſtrong ſelfiſh deſires, and the byaſs

byaſs of impetuous paſſions: this would frequently
caſion controverſies among them. Let us further ſ
poſe that many honeſt men are yet too ſuſpicious,
that they won't ſubmit their diſputes to the arbitr
on of others, each fearing perhaps the intereſt of
adverſary with the arbiters, or his art in ſeducing the
if there be added to this, too much confidence on b
fides in their own force, and obſtinacy in opinion; th
controverſies in natural liberty can be decided no
ther way than by violence and all the miſchiefs of w

But there's ſomething in our nature which more i
mediately recommends civil power to us. Some of
ſpecies are manifeſtly ſuperior in wiſdom to the vulg
as the vulgar are often ſenſible. Theſe of ſuperior
gacity, as all muſt own, are capable of contriving
inventing many things of conſequence to the comm
utility of multitudes, and of pointing out more eff
tual methods for each one to promote his own in
reſt, if their directions are complied with. If to th
abilities be added alſo eminent moral virtues, goodne
juſtice, fortitude; the appearance of ſuch excellenc
obtains the truſt and confidence of all, and kindles th
zeal to promote ſuch perſons to honour and powe
as they conclude that under their direction all may o
tain every ſort of proſperity. 'Tis highly probab
therefor that not only the dread of injuries, but em
nent virtues, and our natural high approbation of the
have engaged men at firſt to form civil ſocieties.

II. BUT if we conſider how much injuſtice, depr
vation of manners, avarice, ambition, and luxury pr
vail among men: it will be manifeſt, that without

l power, men cannot be preſerved in ſafety, not to
eak of any high advantages or pleaſures to be enjoyed
ſociety: and that it is by civil power alone an effec-
al remedy, and ſuch a one as muſt ſtrike the ſenſes
the moſt inconſiderate, can be found for the evils to
dreaded from theſe vices of men. For tho' all the
mbers of a large aſſembly were ſo unjuſt, that upon
t opportunity each one for his own intereſt would
injuries to others; yet each one would abhor like
uſtice done by his fellow, when he had no ſhare in
gain of it. An aſſembly therefor of ſuch men, of
om each condemned that injuſtice in his neighbour
ich he would indulge in himſelf, will never make
uſt decrees for their whole body. Each one will be
amed to own his diſhoneſty, and will live in dread
receiving injuries from others, unleſs they are all re-
ined by equal laws enforced by proper puniſhments.
Nor is there any other way of preſerving ſociety in
ety. For altho' men were not generally ſo depraved,
that even humanity and conſcience reſtrained the
erality from injuries, and inclined them to give aid
any who happened to be wronged: yet multitudes
uld omit this duty through fear and cowardice, if
xpoſed themſelves to danger. Nay further; a ſuf-
ent number of honeſt brave men, if they were not
ected by ſome head, and that united in their efforts,
uld run into the moſt different meaſures, according
their different ſentiments; and when thus disjoined
uld become a prey even to a ſmaller number of leſs
very, who were united in their counſels.

'Tis therefor very probable that ſome of the wiſer

and more ſagacious, obſerving theſe inconveniences
a ſtate of anarchy, fell upon this as the only remed
that a large number of men ſhould covenant with ea
other about entering into a firm ſociety, to be regu
ted by the counſel of the wiſer few, in all matters re
ting to the ſafety and advantage either of individu
or the whole body. And diſcerning the many con
niencies to enſue upon ſuch a project, have explained
to others, and perſuaded them to put it in execution

III. THEY who aſcribe the firſt origin of all c
power to the violence of ambitious men, plainly p
ſuppoſe that already exiſting, whoſe original they
ſearching for: as no one man could have force enou
without a large number of others already ſubjected
his direction and government, to compell a multitu
ſufficient to form a ſtate, to ſubmit themſelves to
power. A civil power therefor was conſtituted pre
ouſly to that conqueſt they ſuppoſe to have produ
the firſt civil power.

Should one allege that a potent head of a fam
with his numerous domeſticks, might have conque
and thus compelled his neighbours around to ſub
to him as their prince. This may have happened
doubt. But we are not to regard names, but thi
themſelves. Heads of families no doubt ſometimes
a proper regal power over their domeſticks. And
ther, we are not inquiring into the poſſible injuri
methods of uſurpation, but into the probable juſt cau
of juſt power.

IV. THAT it muſt conduce much to the intereſt
a multitude to be governed by a council of the w

o man can deny. And altho' under ſome fooliſh plans f government, power may often be intruſted to bad ands, and thence great miſchiefs ariſe, as the corrupions of the beſt things may be moſt pernicious; yet his is no diſhonour to civil government, as if it were n general of little uſe or pernicious. For God has gien men ſufficient powers of reaſon to chooſe ſome of e more prudent convenient forms out of the innuerable multitudes conceivable.

A ſtate or civil ſociety is, "a ſociety of free men united under one government for their common intereſt." That the common intereſt of the whole bois the end of all civil polity, is owned by all. This ſubjects inſiſt upon; and all governors glory in it their dignity; except ſome vain monſters, who forgetting their mortal ſtate, arrogate to themſelves the ghts of almighty God, or even powers more extenve. The very notion of civil life, or polity, is oppoe to deſpotiſm, or the power of maſters over ſlaves. hat civil power therefor alone is juſt which is naturaladapted to this end: other power tho' granted by e raſh deed of an ignorant people, has no foundatin of right. There was an eſſential defect in the deed ranting it, as it was founded in an error about what owned by all to be moſt eſſential in ſuch contracts. One can ſcarce avoid wondering how ſome * ingeous authors ſeem to pique themſelves upon aggravang and exaggerating all the burdens of civil ſubjecti-

* The author has here in view *Hobbes*; and *Puffendorf*, both his greater and leſſer book, who has too blindly followed Hobbes, nay even tranſcribed his very words.

on, as if they deſigned to deter men from entering i to it; but then leaſt they ſhould do ſo, they paint ſtate of liberty and anarchy as the moſt frightful mo ſter of all. Whereas 'tis plain both ſtates have bo their advantages and diſadvantages. There are no dou many dangers in a ſtate of liberty, but theſe not co tinual: generally they are greater and more freque than in civil life; unleſs a people have been exceedin ly incautious in the plan of power they conſtituted: in civil life we have a much ſurer proſpect of protec on from injuries by the united force of all. Nor a there any evils peculiar to a civil life under regular g vernment; the like or worſe, men were alſo * exp ſed to in liberty: [as it will appear by conſidering t ſeveral parts of civil power in the following chapter.

* Thus ſubjects are bound to pay taxes, for the comm intereſt, for fortifying or defending the ſtate. But each c in liberty muſt on his part be at greater charges, either his own conveniency, for fortifying his houſe and arming domeſticks, or for hiring aſſiſtance. Each ſubject may be c liged to hazard his life for the ſtate. But ſo each one in narchy may more frequently for his own defence. Subje ſubmit to a power of life and death over themſelves in c minal juriſdictions. But ſo each one in anarchy is ſubject to a worſe power of any inraged perſon who alleges he injured by him, and intituled to uſe force for redreſs. If a power of life and death one means an arbitrary power a governor, upon any caprice, without a crime alleged, take mens lives away; no ſuch power is in any wiſe po ty; nor can any human deed conſtitute it.

CHA

CHAP. V.

The INTERNAL STRUCTURE *of* STATES: *and the* SEVERAL PARTS *of* SUPREME POWER.

AS no governors are the natural parents or progenitors of their people, nor if they were, could ſy tranſmit to any one heir the parental power over adult brethren: as this power is founded ſolely upon the parental affection, and the weakneſs of immae years: the parental power can never be the foundion of the civil, tho' it be a natural ſketch or emn of it. Nor can any perſon have ſuch power o- a whole people as maſters have over ſlaves; as apars from what was already ſaid. Nor has God by a- revelation nominated magiſtrates, ſhewed the nae or extent of their powers, or given a plan of civil ity for mankind. Nor laſtly can mere force without ne foundation of right conſtitute any juſt power. It ſt therefor remain that ſome *deed* or *contract* of a ple muſt be the ſole natural origin of all juſt power. In ſome extraordinary circumſtances the caſe may otherways. For ſince the good of the whole body, all allow, is the ſole end of all civil power; if any ſon of eminent wiſdom and great power conſults s end ſufficiently, in preſcribing a legal plan, which upon trial ſhall ſoon heartily embrace, he may perps without any iniquity impoſe this plan upon a rude d unexperienced people, which upon experience they

ſhall

ſhall ſoon approve, tho' he could not obtain their
vious conſent to it. But as no people can be ha
while they live in perpetual doubts and fears, as to
ſecurity of their higheſt intereſts from the invaſion
men in power; we may pronounce in general
there can be no right to power except what is ei
founded upon, or ſpeedily obtains, the hearty con
of the body of the people.

II. To conſtitute a ſtate or civil polity in a reg
manner theſe three deeds are neceſſary; firſt a
tract of each one with all, that they ſhall unite
one ſociety to be governed by one counſel. And
a *decree* or *ordinance* of the people, concerning
plan of government, and the nomination of the go
nors; and laſtly another *covenant* or *contract* betw
theſe governors and the people, binding the rulers
a faithful adminiſtration of their truſt, and the pe
to obedience. 'Tis true that in the firſt conſtituti
of power, 'tis ſcarce credible that a rude and inca
ous multitude, full of admiration of the ſhining vir
of ſome more eminent characters, took theſe three
mal ſteps. But then in every juſt conſtitution of pow
* ſomething was originally done which plainly incl
ed the whole force of theſe three tranſactions; fi
the end known and profeſſed by all ſides in this c
ſtitution of power was the common good of the wh
body.

As to the tranſmitting of theſe civil obligations
poſterity, the following obſervations will explain
1. Each citizen in ſubjecting himſelf to civil po
ſli

* See Mr. Carmichaell's notes on Pufendorf, Lib. II. vi

ulated protection from the whole body, with all the er advantages of a civilized life, not only for him- but for his poſterity: and in this, tho' uncommiſ- ned, did them a moſt important ſervice. They are und therefor, * whether they conſent or not, to per- m to the body of the ſtate, as far as their power es, all that which could reaſonably be demanded om perſons adult for ſuch important benefits received. ow 'tis highly reaſonable that all ſuch ſhould on their rts contribute to the defence and ſupport of that te, by which they have been ſo long protected in a ilized life, and not deſert it unſeaſonably; but tranſ- t that aſſociation with its beneficent influence to po- rity.

2. As it muſt be extremely dangerous to any poli- al body ſettled in any diſtrict, that any lands with- the ſame ſhould remain exempt from the civil pow- of the united body, to be a receptacle to fugitives foreign enemies; 'tis juſtly preſumed that when a- body of men poſſeſſing ſuch a diſtrict of land con- tute a civil power, each one thus ſubjects his lands it, that no perſon can hold the ſame without alſo bjecting himſelf to it, and uniting with the body po- tick.

3. And yet, in times of eaſe and peace, it would em unjuſt and diſhonourable to any ſtate to hinder citizens from ſelling their lands, removing to any ther ſtate they pleaſe, and freeing themſelves from heir former political relation. For the ſeveral ſubjects y the taxes or tributes they pay annually, compen- ſate

* This is an obligation *quaſi ex contractu*. See Book II. xiv. 2.

ſate all the ordinary advantages they receive from
community: and it would be unjuſt to hinder them
conſult better their own intereſt if they can elſewhe
Nor is there danger that any ſtate will be deſerted
many of its ſubjects, unleſs it be either miſerably con
tuted or adminiſtred; and in ſuch caſes the citizens ha
a better right to quit it, and cannot be compelled
remain its ſubjects.

III. A ſtate conſtituted in this manner becomes
one perſon in law, holding *rights* different from th
of the ſeveral members; and under *obligations*, wh
bind no individual; and committing to certain p
ſons or councils the management of its common in
reſts. Among ſeveral ſtates thus conſtituted, as th
are all with reſpect to each other in natural liberty a
independence, the like rights and laws obtain as amo
individuals in liberty. States have their perfect righ
and obligations to each other, and are bound to offi
of humanity, in a like manner as individuals in na
ral liberty: and have like rights of ſelf-defence. T
is the caſe of all ſtates which are independent, wheth
greater or ſmaller, whatever names and titles they be
more humble or more oſtentatious. By an eaſy ſubſ
tution therefor of ſtates for individuals, the natur
law with reſpect to individuals in liberty, makes all th
publick law of ſtates with reſpect to each other, whi
is of neceſſary obligation. As to voluntary or poſiti
publick law, we ſhall touch at it hereafter *.

IV. THE ſeveral powers requiſite for governing
people are divided into the *greater* and *leſſer*. Of the
greate

* Ch. ix. and x. of this book.

greater powers ſome are executed within the bounds of the ſtate, and others reſpecting other ſtates are to be exerted abroad. Of the former claſs, is that of *making* laws to regulate the behaviour of the ſubjects, and maintain their rights, ſtill regarding the law of nature.

2. Another is, that of *exacting all ſuch tributes* or revenues as the adminiſtration of the ſtate requires: this ſome make a branch of the former. Revenues are ſometimes raiſed from ſubjects, ſometimes from conquered provinces; ſome deſtined for ſupport of the families of the ſupreme governors, and ſome for the publick affairs of the ſtate. As to the former, elective princes are deemed only as life-renters, and hereditary princes have a right like that in fiefs, to be tranſmitted unburdened to their heirs. As to the other branch, princes can only be deemed adminiſtrators or truſtees for the whole ſtate.

3. A third branch of power is the *executive*, containing all juriſdiction civil and criminal; and the right of conſtituting magiſtrates, and judges to take care of all publick affairs, and decide controverſies, as alſo officers to collect the tributes.

The powers to be exerted abroad are firſt thoſe of *war*, in enliſting ſoldiers, and appointing officers, and directing all military operations.

2. The power of making *treaties*, either for ſettling peace, or maintaining commerce, and of conſtituting ambaſſadors for this purpoſe.

There's beſide all theſe a certain *extraordinary right* in the ſupreme governors of any people, in great exigencies, to incroach upon thoſe rights of the ſubjects

which for ordinary are to be religiouſly maintained them: as when it happens to be abſolutely neceſſa in ſome perilous emergencies, either to compell the to ſome extraordinary dangerous ſervices, or to con butions of their goods beyond the ordinary propor ons. This right in civil life anſwers to theſe extra dinary rights of neceſſity, we formerly * mentioned natural liberty.

The ſmaller rights commonly veſted in the ſupre governor, are thoſe of conferring civil honours, co ing of money, granting to hold fairs or markets, legi mating of children, erecting corporations, admitting m nors as if they were of due age, pardoning crimina giving protections to debtors, and ſuch like; which briefly paſs over as of leſs importance, and not alwa neceſſary in every ſtate.

V. THOSE perſons or councils have the ſupre power, who are intruſted with the greater branches power abovementioned, or the greater part of the ſo that they can exert them according to their ow judgment, and no other perſon or council can reſci their deeds. Many have ſupreme power who do hold it unlimited, nor even for life: ſuch too as ca not alter the order of ſucceſſion, or aboliſh any of t fundamental laws of the ſtate. He is ſupreme to who the chief parts of civil power are committed, tho' wit in certain limits, to be executed by his own order f the good of the body, ſo that he does not act by n commands, or commiſſions from any other; and who dee

* Book II. ch. 16. art. 3. near the end.

eeds derive not their force from the conſent of any ſu-
erior.

In every ſtate the ſame quantity of power is deemed
o be lodged ſome where or other; either with a mo-
arch, a ſenate, or popular aſſembly, or at leaſt with
he whole body of the people. Nor is it any diminuti-
n of the ſupremacy or independence of a ſtate that it
s bound by its treaties with others, even tho' they be
ery inconvenient ones; provided the ſtate can ſtill
xerciſe all the greater parts of civil power, and can
overn itſelf independently of others.

If a number of ſtates enter into ſuch a ſtrict alli-
s to conſtitute ſome one perſon or permanent
ion council for them all, and commit to this perſon or
ouncil ſome parts of the ſupreme power, to be exe-
uted for them all; they are called a *ſyſtem of ſtates*,
r *Achaian ſtates*, from a famous inſtance of that kind.
ut independent ſtates then incorporate entirely into
ne, when the very ſame perſons or councils have com-
itted to them all the parts of the ſupreme power to
e executed for them all.

ance.

CHAP. VI.

Of the VARIOUS PLANS *of* GOVERNMENT.

THE ſimple forms of government are divided into to three claſſes, according as the power is committed to one perſon or to one council. When it is committed to one perſon, it is called monarchy; when to a council of ſome few eminent citizens, it is an ariſtocracy; and when it is committed to a popular aſſembly either of all the free citizens, or of ſome more reputable perſons deputed by them, 'tis democracy.

When power is committed to a council, that is deemed the will of the council which is determined by the major part; unleſs by ſome fundamental law, a certain number of members is made neceſſary for determining any matters of publick adminiſtration, as a *quorum*, and what proportion of this number, can make any alterations. Precaution ſhould alſo be taken againſt an inconvenience which may always happen when a queſtion of three or more parts is put to a vote, that that part to which a great majority may be moſt averſe may yet have more votes than any one of the other parts, and thus be enacted. This may always be prevented by reducing a complex queſtion into two or more ſimple ones, of two parts each; or by excluding by previous votes one or two of the parts of the complex queſtion, ſo as only two parts ſhall remain for the

laſt deciſive vote. A like method may be taken ere many candidates ſet up for the ſame office.

II. OF each of theſe ſimple kinds there are many cies. Monarchy is either *abſolute*, where the whole miniſtration is committed to the prudence of the mo-ch, without any other limits than thoſe which are ays underſtood from the general end of all civil go-rnment; or it is *limited* in the original conveyance the power; and certain rights reſerved to the peo-and exempted from it. And then each of theſe kinds ſubdivided into *hereditary* and *elective:* the elec-e princes again may either be choſen for *life*, or a *certain term.*

There are likeways ſeveral kinds of *ariſtocracys*, *ab-lute*, or *limited*; *hereditary* or *elective*; *perpetual* or *porary.* * In this laſt ſort the ſenators hold their ts for a certain term; upon the expiration of which, ers are ſubſtituted in their places. If ſuch new ſe-tors are elected by the people, and any free citizen y ſtand candidate, the council is rather *democrati-l:* but if the places are filled by the votes of the re-ain ng members of the council; or only ſome emi-nt families can be candidates, it is *ariſtocratical.* hen the ſeat in the ſenate depends upon a certain antity of wealth; or is held in virtue of certain

* The characters of ariſtocracy, are *cooptation* by the ſenate, a perpetual ſeat, and a limitation to certain eminent fa-lies, diſtinguiſhed by fortune, or bearing great offices. The aracters of democracy are *popular elections*, *temporary ſeats*, d *acceſs to all* citizens to ſtand candidates. There's in many nſtitutions a mixture of theſe different characters.

lands

lands juſtly poſſeſſed; 'tis called properly *oligarchi*
When theſe alone can be elected who have diſchar
certain great offices with approbation, this is deem
ariſtocracy in the propereſt ſenſe, and the plan o
moſt commended by ſome great authors of antiqui

There are alſo different kinds of *democracies*, as
popular aſſembly is differently conſtituted. We h
examples of two ways in the *comitia curiata*, and
turiata of the Romans. In the former all citizens
ted equally: In the later according to their fortun
In ſome ſtates the lot determined the members of
aſſembly: in others the people being divided into
number of tribes, counties, or diſtricts, and theſe ag
ſubdivided; each diviſion ſends ſo many delegates
deputies, choſen by themſelves, to be members of
popular aſſembly.

The complex forms are innumerable, according
any of the different ſorts of ſenates jointly ſhare the
preme power, with any of the ſorts of monarchy; a
again as any of thoſe complex kinds are again conjoin
with one or other of the popular aſſemblies: and th
as ſuch or ſuch parts of the ſupreme power are veſt
in one or other of theſe councils, or in the monarch
or in all three jointly.

III. THAT we may diſcern which of theſe for
is preferable, the following obſervations ſeem prop

1. In conſtituting of a ſtate theſe four points are to
aimed at; that firſt, there be ſufficient *wiſdom* in t
government to ſee what is beſt for the ſtate; and th
fidelity to chooſe what is beſt; and next that *conco*
be maintained; and laſtly a *ſecret and ſpeedy execut*

. If in any plan ſufficient precaution is taken for all ſe, a people cannot deſire more from its civil po-y.

2. Where the parts of the ſupreme power are placed different ſubjects or bodies; there muſt be ſome ſuch litical bonds between them, as ſhall prevent their ing in oppoſition to each other; that the prince, for ance, may do nothing of high importance without nſent of the ſenate or popular aſſembly; nor theſe dies do any thing without conſent of the prince; nor e of theſe bodies without the concurrence of the o-er. If any ſufficient precautions of this kind be ta-n, the civil power is better lodged by parts in diffe-nt bodies, than all committed to either a monarch, to any one council.

3. The power whereſoever lodged will never re-in ſtable unleſs it has large *property* for its founda-n; without this it muſt be fluctuating, and expoſed frequent ſeditions. Wealth carries force along with which will overturn rights not ſupported by wealth; be wreſted from the owners by the civil power. An reditary monarchy needs for its ſtability large crown-nds, or hereditary provinces, belonging to the mo-rch's family. A ſenate will not remain ſtable unleſs arge ſhare of the lands are the property of the ſena-rs: and lands muſt be diſperſed among great multi-des, and preſerved thus diſperſed by agrarian laws, make a ſtable democracy; or ſome other cauſes muſt ep property much diffuſed. And altho' the diligent d active ſhould not, without weighty cauſes, be any y reſtrained in their juſt acquiſitions: (and indeed the

the beſt ſorts of democracy may allow them to acq
as much as can be requiſite for any elegance or p
ſure of life that a wiſe man could deſire:) yet we
never to put in the ballance with the liberty or ſa
of a people, the gratifying the vain ambition, luxu
or avarice of a few. It may therefor often be juſt
prevent by agrarian laws ſuch vaſt wealth coming
a few hands, that a cabal of them might endanger
ſtate.

4. No ſuch inſolent or oppreſſive privileges ſho
be granted to any one order in the ſtate, as would
clude all others from publick offices of dignity or
fit. For they will become occaſions of perpetual fe
ons *.

5. As it would be of little conſequence what w
the form of polity, were it provided that none
good and wiſe men got into power; (which per
no precaution can enſure) the main drift of good
licy is, to provide that even tho' bad men come
power, they ſhall either have ſmall temptations t
buſe it, or at leaſt no hopes of gain and impunity
doing ſo.

6. As to the fitteſt number for making an ha
ſtate, nothing can be preciſely determined. If the n
ber is ſmall, there won't be ſtrength enough ag
bands of the avowedly unjuſt, who may attack i
ſurprize; nor will there be ſufficient wealth to exe
any wiſe deſigns for the improvement of life. On
other hand when the numbers and the extent of a co

* Of this we have a clear inſtance in the Roman ſtate,
the plebeians got acceſs even to the conſulate.

ry is very large, no governors can take ſufficient care of all their intereſts, and prevent frauds, extortions and oppreſſions, even by the avarice of the deputy-magiſtrates, as acceſs to complain muſt be more difficult. And beſides, far fewer men can be employed in the greater and more important ſtate-affairs, and thus improve in that moſt important part of wiſdom, than if out of the ſame numbers and the ſame tract of ground, ſeveral diſtinct independent ſocieties had been framed. Indeed this is ſeldom matter of choice, what numbers ſhould unite. For if once vaſt empires are formed, it becomes neceſſary to any little ſtates around them to incorporate together, as many of them as may be, for their defence againſt a potent neighbour. But as agrarian laws are often juſtifiable in a ſtate, to prevent the immoderate increaſe of wealth in the hands of a few; 'tis equally juſt, for the ſame reaſons, that ſmaller neighbouring ſtates ſhould take timely precautions, and that by violence too, if gentler methods are not like to ſucceed, that no neighbour-ſtate ſhould acquire ſuch force as may enſlave all around; eſpecially if they ſee a prevalent diſpoſition in all the inſtitutions and manners of any neighbour-ſtate toward military affairs and conqueſt.

IV. MONARCHY has theſe peculiar advantages, that it is adapted to preſerve concord, and make a ſecret and ſpeedy execution of any deſign. But then in hereditary monarchies there's ſmall ſecurity for either the wiſdom or fidelity of the monarch. In elective monarchies there's greater probability for wiſdom; but rather leſs for fidelity: and upon the death of each mo-

narch there's an open gate to civil wars. Under an a
ſolute hereditary monarchy nothing is ſecure. Un
the limited hereditary, no better precaution is tak
for wiſdom, but there is better precaution as to a fai
ful adminiſtration: ſince if the monarch violates the f
damental laws, or breaks over the bounds ſet by th
to his power, he plainly declares himſelf a tyrant, a
forfeits his right; which all the ſubjects muſt plainly ſ
and hence will more readily agree in dethroning him
ſet up another, or to conſtitute ſome better plan.
then in the limited monarchies there generally pre
factions, which ſometimes turn into civil wars.

In the ſimpler hereditary ariſtocracies ſcarce ſuff
ent precaution is taken for wiſdom, and ſcarce any
fidelity, concord, or ſecret and ſpeedy execution.
the elective are better precautions for wiſdom and
delity, but no better for concord or execution.

In democracies we are always ſecured as to fideli
and may have a tolerable proſpect as to wiſdom t
when mens votes are according to their fortunes;
when the aſſembly is made up of deputies elected
the people: but there's no ſecurity of concord, o
ſpeedy and ſecret execution in any pure democracy.

The moſt convenient way of voting in all la
councils or aſſemblies is by the ballot: as by this mea
men need not dread the reſentments of men in pow
and 'tis leſs eaſy to uſe any indirect influence. A
altho' in the ballot there's no reſtraint of ſhame, b
a door opened for private favour, hatred, and en
yet it ſeldom happens that theſe paſſions work in th
majority of a people without ſome juſt or proba
cauſe.

ufe. But if ſomething of the lot be alſo intermix-
d, * it may often quite defeat great cabals, and their
rts of corruption, and ſtop the power of malice and
vy. But the lot alone muſt be quite unfit to deter-
ine any point of conſequence, or to advance any per-
ns to offices; for tho' no man is affronted by a diſ-
ppointment this way, nor is there any room for par-
ial favour; yet it is plainly void of all prudence or
iſdom.

V. WE have ſaid enough to ſhew that none of the
mple forms of government are well adapted to pre-
rve any ſtate happy. Nor is it of any avail to plead
ntiquity here. If all the moſt antient ways were beſt,
e ſhould return to caves and beaſt-ſkins for our ſhel-
r and dreſs. What flatterers of princes often tell us,
at monarchy was the earlieſt form, is rather diſho-
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rude and unexperienced populace, but could not con-
ue to pleaſe upon experience and the increaſe of
iſdom. And indeed in nothing could one leſs expect
at the firſt eſſays would be perfect, than in the con-
itution of civil polity; a work requiring the greateſt
nowledge and prudence, to be acquired only by much
hought and experience of human life. The ſeveral
reat inconveniences attending each of the ſimple forms
ew the neceſſity of having recourſe to the mixt and
omplex; and the ſeveral great advantages peculiar to
ach of the ſimple, ſhew that thoſe mixed forms are
eſt where all the three kinds are artfully compounded:

* All theſe points are fully explained by *Harrington*.

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ſhew the neceſſity of having recourſe to the mixt and
complex; and the ſeveral great advantages peculiar to
each of the ſimple, ſhew that thoſe mixed forms are
beſt where all the three kinds are artfully compounded:

* All theſe points are fully explained by *Harrington*.

and this was the opinion of the wiſeſt men of antiquity. †

As a council of delegates or deputies duly elected by a general popular intereſt can never want fidelity or good intention, and ſeldom can be deficient in wiſdom; it may ſeem adviſable that a large ſhare of the civil power ſhould be lodged in ſuch a body; ſuch as that of enacting laws and even determining definitively the most weighty affairs in deliberation. And this part of a conſtitution ſhould be ſecured by agrarian laws: not ſtrait however as to diſcourage induſtry, or exclude any innocent elegance or ornament of life.

If there be alſo a *ſenate* of a few who have approved their abilities and fidelity in diſcharging the great offices of the common-wealth; it may ſafely be intruſted with the ſole right of deliberating, debating, and propoſing buſineſs to the popular aſſembly. In both councils it may be proper to contrive a rotation, by new members gradually ſucceeding to the old, ſo that neither council may have above one third of unexperienced new men, nor yet any one man continue a member perpetually. Laws limiting the times that any general, miniſter of ſtate, or magiſtrate can continue in office have alſo great advantages, to prevent any perſon's ſo rooting himſelf in power or popularity, as to be dangerous to the conſtitution; and to train up greater numbers in political wiſdom, by experience in the important offices; ſo that the ſtate may never be obliged to have all its hopes depending upon one mortal life. Where ſuch laws are ſacredly eſtabliſhed, the ſtate

† *Plato, Ariſtotle, Zeno, Cicero.*

ate will never want the benefit of the wiſdom or ex-erience of ſuch as have ſerved out their legal time. for it will be no matter of offence that at the expira-on of it they muſt lay down their offices according o law.

And laſtly, for ſudden unexpected exigences or dan-ers, and for the ſecret and ſpeedy execution of what e publick intereſt may require, ſome ſort of regal dictatorial power is requiſite; but ſuch an one as s no other foundation of its force but the laws them-ves. And to this power may be committed the com-and in war, and the execution of the laws. This ird branch may be as an arbitrator, holding the bal-nce between the two other parts of the conſtitution, there ſhould ariſe any high contention between the atorial order and the plebeian.

The power of promoting to all ſorts of offices may ſome way veſted in theſe three jointly, or divided ong them; ſo that offices requiring great abilities wiſdom ſhould be filled by the nomination of the ſenate; ſuch officers as are to be employed in ſpee-execution, to be nominated by the prince: and ſuch are to protect the rights of the people, and admi-ter juſtice among them, to be elected by the peo-.

A cenſorial power too would be of the higheſt uſe, reform, or prevent the corruption of manners; by grading perſons of any dignity whatſoever, as ſoon they run into a diſſolute courſe of debauchery.

CHAP.

CHAP. VII.

The RIGHTS *of the* SUPREME POWER: *and t*
METHODS *of* ACQUIRING IT.

THE perſons veſted with the ſupreme power, ha
it with that extent which the conſtitution
fundamental laws have given them. The ſum of *ci*
power in all ſtates is the ſame; the ſame quantity
it in every ſtate reſides ſome-where or other, at le
with the body of the people. But the powers ve
in the king, or in any councils, in one ſtate, may
very different from what is veſted in like perſons
councils in others. For in ſome, certain rights of
people are expreſly exempted from the power of
prince or political council; but in others, there's
ſuch exemptions. But as the end of all civil powe
acknowledged by all to be the ſafety and happine
the whole body; any power not naturally conduc
to this end is unjuſt; which the people, who ra
granted it under an error, may juſtly aboliſh ag
when they find it neceſſary to their ſafety to do ſo.
can any thing be conceived more inſolent or perfidi
than that perſons intruſted with power ſolely for
good of a people, ſhould ſtrive to retain it by fo
for their own grandeur, when it is found deſtructiv
the people.

It were to be wiſhed that in theſe caſes, ſuch p
ers ſhould be aboliſhed in a peaceable manner, by

nal conſent, rather than by force. Nor is it juſtifiable
a people to have recourſe for any lighter cauſes to
iolence and civil wars againſt their rulers, while the
ublick intereſts are tolerably ſecured and conſulted.
ut when it is evident, that the publick liberty and
fety is not tolerably ſecured, and that more miſchiefs,
d theſe of a more laſting kind, are like to ariſe from
e continuance of any plan of civil power than are to
e feared from the violent efforts for an alteration of
, then it becomes lawful, nay honourable, to make
ch efforts, and change the plan of government.

What is alleged about ſome peculiarly divine right,
d inviolable ſanctity of governors, eſpecially mo-
rchs, is a mere dream of court-flatterers. In one
ſe every right is divine which is conſtituted by the
w of God and nature. The rights of the people are
s divine, as well as thoſe of princes: nay ſince the
r were conſtituted for the defence and protection
the former; the former ſhould be deemed the more
ine and ſacred. The rights of the governor, as they
e more important than thoſe of any one private man,
y be deemed more ſacred than his private rights;
t can never be deemed more ſacred than the rights
the whole body. A good ſubject ought to bear pa-
ntly many injuries done only to himſelf, rather than
e arms againſt a prince in the main good and uſe-
to the ſtate; provided the danger only extends to
mſelf. But when the common rights of the commu-
y are trampled upon; and what at firſt is attemp-
d againſt one, is to be made a precedent againſt all
reſt, then as the governor is plainly perfidious to his
truſt,

truſt, he has forfeited all the power committed
him.

II. In every ſort of government the people has
right of defending themſelves againſt the abuſe of po
er. If the prince's power be limited, and yet he bre
over its bounds, invading ſuch rights as the people
reſerved in the very conſtitution of the power; the p
ple's right of reſiſtance is unqueſtionable. But e
in abſolute governments they have the ſame right
their governor, ceaſing to uſe his power as if he o
ed it deſtined for the good of the body, ſhould
vern the whole ſtate as his own property; and negl
ing the common ſafety of all, turn every thing to
gratification of his own luſt or avarice; or if he pla
ly declares a hatred of his people; or conducts all
fairs in ſuch a wretched manner, that not even
moſt ſacred rights of the people, ſuch as are neceſ
to any tolerable life, remain ſecure to them.
does this doctrine of reſiſtance give to the people
vil ſuperiority over their governors: for even ſl
adjudged to the moſt miſerable ſubjection for t
crimes, may have a right to defend themſelves ag
certain injuries their maſters may attempt againſt th

As to that queſtion, who ſhall be judge in this di
ted point, whether the governors by their perfidy
mal-adminiſtration have forfeited their right? If
alleged, the people cannot judge as they are part
for the ſame reaſon the governors cannot judge.
only recourſe then ſhould be to impartial arbiters,
ther within the ſtate, or in ſome other nation, if
could be ſafe: but if not; ſurely the people have a

r chim to judge in this point; ſince *they* at firſt en-
uſted their governors with ſuch powers, and the pow-
s were deſigned for the management of the people's
tereſts, and were conſtituted for their behoof. 'Tis
ue there are great dangers of miſtakes on this head:
t the governors are not exempted from errors more
an the people. Men have often erred both about pu-
ck rights, and the private ones too of ſelf-defence:
t we muſt not for that reaſon deny that they have
ch rights.

In this moſt important matter, no doubt, perſons
ncerned are bound to uſe the utmoſt caution, and
igh all things on both ſides. Nor ought we to involve
r fellow-citizens in civil-wars, the moſt miſerable of
l wars, for any ſuch lighter injuries, or wrong con-
ct of our governors, as may be incident ſometimes
perſons in the main good and of upright intentions.
t when there's no other way of preſerving a people;
d when their governors by their perfidious frauds
ve plainly forfeited their right; they may juſtly be
ſted of their power, and others put into their pla-
, or a new plan of power eſtabliſhed.

Nor does this doctrine of the right of reſiſtance in
fence of the rights of a people, naturally tend to ex-
e ſeditions and civil wars. Nay they have been more
quently occaſioned by the contrary tenets. In all
s there has been too much patience in the body
the people, and too ſtupid a veneration for their
nces or rulers; which for each one free kingdom
ſtate has produced many monſtrous herds of miſe-
le abject ſlaves or beaſts of burden, rather than ci-

vil polities of rational creatures, under the moſt inh
man and worthleſs maſters, trampling upon all thi
human and divine with the utmoſt effrontery.

III. Upon dethroning a tyrant, or upon the na
ral extinction of a royal family, or the death of an el
tive prince, there ariſes an *interregnum*. In wh
caſe, even altho' there be nothing expreſly provided
the conſtitution, yet the political union of the peo
is not quite diſſolved. They all continue bound by t
firſt covenant we mentioned, to conſult their comm
intereſt by joint counſels. They ſeem to be in a
of ſimple democracy for ſome time; in which it ſho
be determined by plurality of votes of the whole, o
thoſe at leaſt who uſed to be concerned in the publ
affairs, what ſhall be their future form of polity
who are to be promoted to the government. Nor
it juſt that any ſmaller part, without conſent of the
ſhould break off from the political union; unleſs
majority are ſetting up ſome unjuſt or deſtructive
of polity.

IV. To princes, or rulers of any kind, who hav
videnced integrity and fidelity in their truſt, the h
eſt deference and honour is due from their ſubje
they ſhould be ſupported and defended with the
and fortunes of all, whether againſt rebels or for
enemies. Nor are ſubjects freed from this obligat
by any ſuch lighter faults or miſtakes of their go
nors, as may be incident to men in the main up
and faithful to their truſt. But if after all the e
of their ſubjects, ſuch princes are conquered and
throned, either by ſome competitor or ſome for
pow

power, ſo that there remain no probable hopes of their recovering their juſt rights; 'tis their duty in ſuch caſes to quit their claim: nay 'tis juſtly deemed extinct: ſince all obligations between governors and ſubjects are mutual, depending upon mutual offices. And when it becomes impoſſible for one ſide to perform his part, the other is freed from his obligation. The people therefor, after their utmoſt efforts for their old rulers have proved unſucceſsful, may juſtly ſubmit to the conqueror, when they cannot otherways conſult their own ſafety. It would indeed be ſtrange arrogance in any prince to expect that a whole people ſhould be bound, by a vain zeal for his dignity and intereſt, to expoſe themſelves to all the rage and fury of a conqueror, to no valuable purpoſe.

V. As natural liberty is "the right of acting as "one inclines within the bounds of the law of na"ture;" (nor could we hold any ſuch liberty were there no laws to defend it from the force of the ſtronger:) ſo we ſay a people enjoys liberty when "each "one is allowed to act as he inclines, within the "bounds of civil law, and not ſubjected to the caprice "of any other." We ſhould never look upon laws as averſive of liberty; but that 'tis ſole enemy is the capricious humourous will or command of men in power. The Romans indeed in ſpeaking of a *free people*, generally meant a democratical ſtate; where men had their turns of commanding, as well as of obeying.

VI. It was already ſhewn that civil power can ſcarce be conſtituted juſtly any other way than by the conſent of the people: and that rulers have no other

ſacred rights or majeſty, than what may ariſe from thi
that of a large multitude of men, each one for himſe
ſubjected part of his rights to the adminiſtration of
certain perſon or council. And thus from a part of o
natural liberty transferred to the ruler, and our pr
perty in a certain degree ſubjected to his diſpoſal,
riſes the legiſlative power. In natural liberty alſo ea
one had a right to expoſe his life to the greateſt da
gers, in any honourable ſervices in defence of his fam
ly or his neighbours, and when the common intere
required it he could commit himſelf to the directi
of others in ſuch ſervices; and hence the right of m
litary command. Men had alſo this right of repelli
injuries, and puniſhing by violence any one who attem
ted or executed any injury, and even of putting hi
to death if this was neceſſary for the common ſafet
and hence ariſes all *criminal juriſdiction*, even to t
inflicting of capital puniſhments. Nor need we have r
courſe to any extraordinary grants or commiſſions fro
God to explain any of theſe rights of civil ſovereig

VII. Nor can any one form of government be
eſteemed more divine than others, on any other accou
than that it is better adapted to promote the proſpe
ty of the community; which can leaſt of all be
leged of abſolute hereditary monarchies. Need
ſuggeſt here that no divine law natural or poſitive d
termines the order of ſucceſſion to monarchies, wh
ther the *general hereditary*, and that either by ma
only, or alſo by females; or the *lineal hereditary*.
the ſucceſſion to private fortunes, tho' this be manif
in general, that the goods plainly acquired for the b
hoo

hoof of a man's family and kinſmen, ſhould deſcend to his family or kinſmen upon his deceaſe; yet there are not a few difficulties in determining the proportions. But as to civil governments, which, 'tis obvious, were never conſtituted for the behoof of a family, but for the intereſt of a whole nation; there ſeems no natural reaſons that the ſucceſſion to them ſhould depend upon the proximity of blood to the former poſſeſſor; and much leſs that the lineal ſucceſſion ſhould be regarded. * All ſuch right of ſucceſſion muſt ariſe from human laws, or decrees of a people, and theſe ſometimes very incautious and imprudent.

VIII. As to that much celebrated *right of conqueſt*, by which the conqueror claims the civil power to himſelf and his heirs over the conquered people; it has little better foundation generally than the claim of robbers and pirates upon perſons and their goods which have

* See Book II. Ch. 8. 4. The deciſions of ſome queſtions about the ſucceſſion in hereditary lineal kingdoms, turn upon very fantaſtick reaſons. Some allege proximity as a natural reaſon; and yet an elder couſin-germain's grandchild, ſhall often be preferred to a younger couſin-germain. They ſay too that ſeniority is a natural reaſon of preference; and yet the infant-grandchild of a deceaſed elder-brother takes before a ſecond-brother of mature years. The eminence of ſex too is made a great matter; and yet the infant-grand-daughter by an elder-uncle deceaſed, ſhall take before a younger-uncle. In general, theſe potent cauſes of preference, proximity, ſeniority, and the ſex, are not regarded as they are found in the competitors themſelves; but as they were perhaps in their great-grandfathers or great-grandmothers, deceaſed an age or two before.

have fallen into their hands.† For firſt, unleſs t
conqueror had a juſt cauſe, he acquires no right. A
then tho' his cauſe was juſt, yet, as we ſaid above,
his claim has certain bounds; nor has he a right to
act more from the vanquiſhed than what is repuiſite
repell the injury attempted, to repair all damages do
or to obtain ſufficient ſecurity againſt injuries for
future. If he inſiſts on more, he has no juſtice on
ſide in ſuch demands. Now it is never neceſſary,
ther for averting of injuries, or repairing of damag
that the conquered ſhould be deprived of their liber
or independency, and be reduced into the form o
province to the conqueror. Nay 'tis generally very p
nicious to the common intereſts of mankind, that ſta
ſhould thus enlarge their power, and make it for
dable to all around them. All preſent danger to
victorious is averted, and full reparation of dama
generally obtained, long before their enemies are
tirely ſubdued and over-run by their arms. The c
querors generally ſoon take to themſelves abund
compenſation out of the moveable goods of the conq
red: and every ſtate when thoroughly defeated, wo
always conſent to make compenſation this way,
would pay an annual contribution for a certain te
to make up what was awanting; rather than
their liberty and ſovereignty, and be ſubjected to
reign

† Upon this ſubject ſee *Locke on Government*; whoſe
ſonings are well abridged in Mr. *Carmichael*'s notes on P
fendorf's ſmaller book. Book II. ch. x.

* Book II. ch. xv. 5. 8. and Book III. ch. iii. 2.

signers. And ſurely by theſe ways all damages could be abundantly repaired. †

As to ſecurities againſt future injuries: ſurely ſuch ſecurities as are univerſally allowed to be ſufficient againſt a ſtate yet retaining much of its ſtrength, ſhall be more than ſufficient againſt one wholly exhauſted and almoſt ruined by war: now in all treaties, theſe are deemed ſufficient ſecurities againſt ſtates yet retaining much of their force, if they deliver hoſtages, give up their fleets, or a great part of them, ſurrender frontier towns with their fortifications, or receive garriſons of their neighbours into them, or even if they diſmantle them, or demoliſh all the fortifications. Nor is there any ſtate that would not rather conſent to all theſe, rather than become a province ſubjected to another.

IX. If it be alleged that puniſhments ſhould alſo be inflicted as a further ſecurity by deterring others: yet ſurely none ſhould be puniſhed but the guilty. Now the far greater part of any conquered people were involved in no guilt by their governors having entered into even the moſt unjuſt wars. * The conqueror therefor can demand no more of the body of a people than that they either give up their injurious governors, or deſiſt to defend them any further, that the victor may puniſh them as they deſerve. But as to any thing done unjuſtly or inhumanly in publick wars, the common intereſt

† The reaſonings in this and the following articles are deſigned againſt the pleas of *Grotius* and *Puffendorf* for the rights of conqueſt, and *patrimonial kingdoms*, or *principalities*, founded on it.

* See Book III. ch. iii. 2.

intereſt of mankind would diſſuade from making
matter of proper puniſhment. Within the bounds
any regular polity, 'tis generally highly probable or ce
tain that the power of the laws and magiſtrates will
ſuperiour to that of any criminal citizens; and th
therefor they may be brought to juſtice. But in p
blick wars, the forces of the parties by their confed
rates and allies are ſo generally brought to a parity, th
the event is very uncertain: and the juſt cauſe is o
ten unſucceſsful. This ſhould reſtrain conquerors eve
in the juſteſt cauſes from any ſeverities, under the n
tion of puniſhment; as they will become preceden
to others in very bad cauſes, which yet they may judg
to be juſt. The victorious therefor ſhould beware of
ſtabliſhing a precedent, which may be followed ther
after againſt themſelves or their friends.

'Tis vain to allege any tacit convention betwe
the parties in war, that that ſide ſhall have the civ
power over both which happens to be victorious. Tak
ing arms is rather an open declaration of the contrar
that neither ſide intends to ſubmit its rights of an
ſort to the other; unleſs in thoſe caſes where ther
has been ſuch covenants expreſly made; nor was it e
ver, in any other caſe, deemed perfidious, that the pa
ty defeated rallys its forces, makes new levies, or ge
new allies to continue the war. Can any one preten
that that ſide which has a juſt cauſe, defending or pro
ſecuting its own rights, makes any ſuch convention
and if one ſide is known not to do it, we can neve
preſume it on the other ſide. The patrons of this righ
of conqueſt too, can allege only that the ſupreme go
vernor

rnors conſented, and not the body of the people: t with what ſhadow of right can any governors, whoſe ower was granted to them only in truſt for protection f the people, pretend to alienate or transfer the whole eople with all their rights to another, either abſolute- or upon any contingency? ſuppoſe the governors ade ſuch an expreſs convention: by this audacious erfidy they plainly forfeit their power; nor is the ſtate ound by ſuch a deed.

X. SINCE therefor all the authors who plead that rtain civil ſovereignties are *patrimonial*, ſo that they ay be ſold, divided, or any way transferred at the eaſure of the ſovereign, ſuppoſe alſo that they are nerally founded in conqueſt; what is ſaid above ſhews at ſuch power has no juſt foundation. Nay if it ſhould ppen that a ſtate in the greateſt conſternation, upon invaſion from barbarians, ſhould by their own deed bmit themſelves and all their rights to ſome potent eighbour, demanding nothing from them but protec- on; yet even ſuch a deed cannot conſtitute a patri- onial power. * For not to mention the exception of juſt force and terror; or that this covenant being ainly of the onerous kind, yet does not maintain the ential equality: the very nature of the covenant, d the matter of it, ſhews that no patrimonial power uld be intended in it. A ſtate by ſubmitting itſelf to umane, civilized neighbour which exerciſed a gentle e over its ſubjects, cannot be deemed to have con- nted alſo to any manner of oppreſſion or vexations that ereafter this neighbour may inflict on them; nor that

* The reaſons here confuted are found in Grotius, L. I. iv.

they ſhould be made over to any barbarous prince
people at the pleaſure of thoſe they entruſted ther
ſelves to. Nay if this ſuperior ſtate ſhould attem
any thing very oppreſſive of this nature, the ſubje
people may juſtly ſhake off the yoke: ſince it was plai
ly upon other terms that they ſubjected themſelv
They have a right to demand arbitration, as to the
quity of any thing impoſed beyond what ſhould be de
med a juſt compenſation for the protection received.

Nor can any right of ſovereignty ariſe from any ſeem
ing conſent of the conquered, which was only extort
by preſent force. For we ſhewed * above that ſu
force is plainly unjuſt. But if the victor eſtabliſhes
mong the vanquiſhed ſuch an equitable plan of ci
power, as ſufficiently conſults their future ſafety a
proſperity, ſo that upon experience of it they are tr
ly ſatisfied to ſubmit to it; this ſubſequent conſent b
comes a juſt foundation of his power, and is a ſort
civil expiation of the injury done in the conqueſt.

XI. BUT further, as the right of any perſon of t
royal-blood to ſucceed upon the demiſe of his pred
ceſſor, is not founded on any natural cauſes, but ſole
upon ſome old law or decree of the ſtate: the wor
of ſuch laws or deeds are to be underſtood in the ſa
way as like words about other matters deemed her
ditary; and thus we are to collect from them wh
was the intention of the people in ſuch deeds. Wh
therefor this univerſally obtained in any country, th
when the preſent poſſeſſor of any thing hereditary fo
feits it, he forfeits not only for himſelf but all his ki
dred

* § 8th of this chap.

dred; we juſtly conclude that the peoples intention was that the forfeitures of the hereditary ſovereignty ſhould be in the ſame manner. The plea againſt extending forfeitures to the whole kindred of the perſon forfeiting, is very ſtrong and plauſible as to private fortunes, which all know were acquired chiefly for the behoof of the proprietor and his family; and this according to a natural obligation: ſo that children and kinſmen too have a natural claim to be ſupported and have their condition advanced out of ſuch fortunes: and 'tis unjuſt that the fault of one of the joint proprietors ſhould prejudice the reſt, and prevent their obtaining what they are naturally entitled to. But as to hereditary ſovereignties the caſe is quite different. They were not conſtituted for the behoof of the royal family, nor founded in conſequence of any juſt claim they had for their own behoof; but for the intereſt of the whole nation, and chiefly to prevent the miſchiefs to be apprehended in new elections of ſovereigns: and therefore they are much more juſtly made liable to entire forfeitures from the whole family, than any private fortunes.

As therefor a people may juſtly dethrone a perfidious prince; they have a better right to exclude from the ſucceſſion any one who ſhews himſelf plainly unfit for the truſt: and ſuch are thoſe who hold tenets about divine rights which muſt excite them to trample upon the moſt ſacred rights of the people, as ſoon as they get into power; or thoſe who poſſeſſed with ſome furious ſuperſtition will ſubject their crown, or alienate no ſmall parts of the ſupreme power, to ſome foreign prince,

under the ſhew of a religious character; and at the ſame time think themſelves commiſſioned by God to break through in the moſt audacious manner the fundamental laws or conſtitution, and all limits ſet by it to their power; and to force the ſubjects by the ſevereſt tortures either to believe, or falſely profeſs to believe, the moſt monſtrous abſurdities in religion, and to worſhip God in a way they judge impious. An heir apparent who profeſſes ſuch tenets, or refuſes upon a juſt demand to renounce and abjure them in the moſt ſolemn manner, may be excluded from ſucceſſion with much better ground than if he were an idiot or a madman; as the holding of ſuch tenets muſt make him more dangerous to a free people than any folly or madneſs.

What we have ſaid relates not only to monarchs but all ſorts of governours, and to the power of a ſtate itſelf over its colonies, or provinces. If any citizens, with permiſſion of the government, leave their country, and at their own expence find new habitations; they may juſtly conſtitute themſelves into an independent ſtate in amity with their mother-country. If any are ſent off at the publick charge as a colony, to make ſettlements ſubject to the ſtate, for augmenting its commerce and power; ſuch perſons ſhould hold all the rights of the other ſubjects, and whatever grants are made to them are to be faithfully obſerved. If the mother-country attempts any thing oppreſſive toward a colony, and the colony be able to ſubſiſt as a ſovereign ſtate by itſelf; or if the mother-country loſe its liberty, or have its plan of polity miſerably changed to the worſe,

the colony is not bound to remain ſubject any longer: it is enough that it remain a friendly ſtate. Nor are we to imagine that any early covenants founded upon errors about the moſt eſſential points in view, can ſtill bind large ſocieties of men fit to ſubſiſt as happy independent ſtates, to continue in a ſubmiſſion ever-ſave of all proſperity and ſafety. Nor has any thing occaſioned more miſery in human life than a vain and violent ambition, both in princes and popular ſtates of extending their empires, and bringing every neighbouring ſtate under ſubjection to them; without conſulting the real felicity either of their own people or of their new acquiſitions. And hence have aroſe theſe vaſt unwieldy empires; the plagues of all around them; which after ſome time are ruined by their own bulk, with vaſt deſtruction of mankind.

CHAP.

CHAP. VIII.

Of CIVIL LAWS *and their* EXECUTION.

THE power of making and executing laws is the moſt important internal power. Every law ſhould be intended for ſome real utility to the ſtate; and as far as human power can go, laws ſhould enjoin whatever is of conſequence to the general proſperity. But if in the very conſtitution of the civil polity, the ſovereign or chief magiſtrate is only entruſted with ſuch power as is requiſite for the preſervation of the ſecular rights of men; then they cannot exert any ſort of coercive power about the means of forming mens minds to religion or inward virtue. But when they are entruſted with certain revenues, to be employed for the publick utility at their diſcretion; and where they are not expreſly reſtricted to the care of the ſecular rights of men; ſince human happineſs chiefly depends upon virtue, the civil governors muſt think it belonging to their office, to inſtill into the minds of their ſubjects the true ſentiments of religion and virtue, and to influence their hearts to reliſh them, by the beſt inſtruction and diſcipline from their infancy, that they may be furniſhed for all the honourable offices of life.

But at the ſame time they muſt maintain to all, their ſacred right of judging for themſelves; which would be plainly encroached upon by any penal laws about ſuch opinions, whether ſecret or divulged, which don't lead

lead to any practices deſtructive to ſociety. Nay tho' ſuch tenets ſhould be divulged by men who imagine themſelves bound in conſcience to divulge them; it would generally be more adviſable only to inſiſt that ſuch perſons give proper ſecurity that they will give no diſturbance to the ſtate, and bear their ſhare in all ſervices required of them for the publick; and to puniſh rigorouſly only the injuries done in conſequence of ſuch dangerous opinions; rather than to inflict any penalties on men for theſe opinions themſelves. 'Tis often better to leave ſuch tenets to be exploded by the juſter reaſonings of wiſe men, than to proceed to any ſeverities on account of the tenets themſelves.

But as the far greater part of every people will not uſe this right; but induced by ſpecious appearances of ſanctity, and oſtentation of ſuperior wiſdom in ſome deſigning men, will incautiouſly give up themſelves to be led by them; it muſt plainly be the buſineſs of the magiſtrate to get this *leading* into his own hands; by appointing men of character and learning to teach the people the juſt ſentiments of religion and virtue, and to confirm them by the moſt effectual reaſonings; that they may not be perverted by the wicked arts of others. And if men in power have any tolerable wiſdom, and hold any tolerable ſcheme of religion, they will always find the far greater part of the people very tractable to follow as they lead them, ſo that little need be apprehended from a few who may diſſent from the publick ſchemes.

The exacting by law, under any penalties, that people ſhould conform in opinion and practice to any te-

nets

nets or rites of worſhip, that are either falſe and ab
ſurd, or tho' true yet of little conſequence, generall
occaſions great miſchief to any ſtate; ſince accordin
to the different genius's and tempers of men, they hav
and always will run into different opinions and prac
tices in matters of religion: and thence ſome of th
moſt uſeful hands will deſert the country when the
are harraſſed about ſuch matters: the ſtate will b
plagued with ſedition and diſcord: and the activity o
men turned off from the ſervices and occupations whic
are moſt uſeful to the community, and occupied upo
trifles. No good ſubject ſhould meet with any vexati
on, or be excluded from any civil right, on account o
any opinions or modes of worſhip which don't hurt a
ny of their neighbours.

II. THE example of thoſe in ſupreme power wil
have the higheſt influence in promoting the virtue o
the people: eſpecially if they advance to honours only
ſuch as are of approved integrity and purity of man
ners. The populace in their elections, if they are tru
ly free, always follow ſome appearance of virtue; and
will ſeldom promote any but ſuch as are of diſtinguiſh
ed integrity. Nor will honour or power alter the tem
pers of the perſons advanced, if there are proper terms
fixed by law for the holding of offices; ſo that upon
expiration of the term, they muſt return into the com
mon condition of the people. Where the power of pro
moting to offices is in the monarch, the men promo
ted will probably reſemble their political creator.

Next to *piety toward God*, the great ſource of hap
pineſs, and the ſtrongeſt incentive to all other virtues,
the

the virtues to be moſt cultivated in a ſtate are, *temperance*, *juſtice*, *fortitude*, and *induſtry*. Such temperance as reſtrains not only exceſſive impulſes toward pleaſure, but all luxury and immoderate expences on the ſhew and grandeur of life, muſt be allowed, by all who conſider it, to be neceſſary to the proſperity of any ſtate. There is a certain meaſure of ſenſual pleaſures and elegance both grateful and innocent; to provide us to this degree God and nature have produced many fruits and other materials with exquiſite art. Nor is there any moral turpitude in the enjoyment of any pleaſure, if it be inconſiſtent with no duty of life, nor tends ſo to ſoften or weaken the mind that it ſhall be diſtreſſed in the want of it, or be apt to neglect and counteract its duty to obtain it. Luxury therefor ſhould be defined, "ſuch an exceſſive deſire "or uſe of the lower pleaſures, as is inconſiſtent with "diſcharging the offices of life." Nor is it poſſible preciſely to fix general meaſures of lawful enjoyment for all; they muſt be various as their fortunes, attachments, dependent friends, and even bodily conſtitutions are various. Now luxury, in this notion of it, as it laviſhes out mens fortunes, and yet increaſes their keen deſires, making them needy, and craving; it muſt occaſion the ſtrongeſt temptations to deſert their duty to their country, whenever it is inconſiſtent with pleaſure: it muſt lead the citizens to betray their country, either to a tyrant at home, or a foreign enemy, when they cannot otherways get funds for their luxury. With the luxurious generally every thing is venal.

Nor is it juſtly alleged, that luxury is neceſſary or

uſeful to encourage arts and manufactures. For art and induſtry may be encouraged to the higheſt without any luxury, at leaſt all innocent, neceſſary, or elegant arts. Men of higher fortunes may without any luxury purchaſe the moſt ingenious and nice manufactures, as far as their ſeveral obligations in life allow it. And if any ſuch deny themſelves ſuch expences from views of a finer liberality, in raiſing the condition of indigent friends; they along with their families, kinſmen, and friends thus ſupported, may make a much greater conſumption of the very ſame product and manufactures, or of others equally deſerving encouragement in the ſtate; and thus they with their dependents are more beneficial to artificers.

Need we mention too, that a ſober, frugal oeconomiſt, in a long and healthy copious life, generally makes greater conſumption than a prodigal of equal fortune who is often puniſhed with a long tract of diſeaſes and penury, for the extravagance of a few years. And then, as lower orders are always imitating the manners of their ſuperiors; the plague of luxury will ſoon infect the very loweſt, and even the mechanicks. Then they cannot ſubſiſt without higher prices for their labours; the manufactures muſt conſequently riſe in their prices, and cannot be vended abroad, if any more induſtrious and ſober country can afford the like in foreign markets at lower prices.

III. 'Tis ſcarce neceſſary to ſhew the neceſſity of *diligence* and induſtry, ſince the wealth and power of a nation depends almoſt wholly upon them. Agriculture is neceſſary, to prevent a conſtant drain for the food of our

our people, to obtain grain for exportation, and furniſh the very materials for many of our artizans, which otherways we muſt buy abroad. And in like manner all mechanick arts, either ſimpler, or more elegant, ſhould be encouraged, leſt our wealth be drained by our buying foreign manufactures. Merchandize and fiſhery are of great conſequence: nay the very building of ſhips too, that we may not loſe the profit of the carriage either of our own or foreign goods, and with this, the training of ſailors; which contributes both to the increaſe of wealth and to the defence of the ſtate in war. The mechanick trades ſhould be held in reputation, ſo that people of better fortunes and families may not deem it below them to be concerned in them.

IV. THAT juſtice is neceſſary cannot be a queſtion. For if laws and juſtice don't prevail, as without them no right natural or acquired can be ſafe, all induſtry muſt languiſh. Nay as merchants muſt augment their prices in proportion to all their caſual loſſes: where there's much injuſtice, the merchants muſt charge in the price of their goods the loſſes they ſuſtain by the frauds of the unjuſt; and thus the beſt citizens muſt be loaded with this burden: nay further, any neighbouring ſtate where juſtice more prevails, if other circumſtances be equal, can underſell us, on this account. Where therefor juſtice is not maintained, the commerce of a nation muſt ſink, with all its attendant profits.

To examine into the beſt methods of *adminiſtring juſtice*, would require long diſſertations. We only briefly ſuggeſt, that a ſmall number of ſimple eaſy laws

might ſufficiently protect and regulate the citizens, if there were ſuch a contrivance for the courts of judicature, as would entruſt the deciſion of ſuits to men of great goodneſs and equity and approved integrity. ſevere reſtraints upon vexatious or oppreſſive ſuits would be of the higheſt advantage. The earlier laws and conſtitutions of the Romans about theſe matters are worthy of imitation.

V. MILITARY arts and virtues are accompliſhments highly becoming all the more honourable citizens. Warfare therefor ſhould be no man's perpetual profeſſion; but all ought to take their turns in ſuch ſervices. And however it may be obſerved, that, when according to modern cuſtom, armies are made up of the very dregs of a people, fellows too diſſolute and worthleſs for any other occupation, whoſoever takes to this way of life for a few years is made unfit for any other occupation for the future; yet the caſe would be quite otherways if all the beſt citizens ſerved in our armies by turns. This method too would bring along with it theſe grand advantages: all the people would be trained and ſkilled in military ſervice. Should one of our armies be entirely cut off, we could have another of veterans immediately: were the chief officers cut off; we would have others of equal experience in readineſs to take the command: and it would be no eaſy matter for either any ambitious citizen at home, or any foreign invader, to trample upon the rights of an armed people well trained in military ſervice.

VI. THE laws and whole conſtitution of the ſtate ſhould be ſuch as may prevent any ſmaller bodys of citizens

zens to be more ſtrongly attached to each other, or any foreign intereſt, whether of prince or biſhop, han they are to their own country, or have greater pendance and expectations of promotion by them. nd the citizens ſhould be taught that no antient en- gements, obtained from their anceſtors by the moſt mpious frauds, can be of any validity againſt the pro- perity of their country. For it cannot be of uſe to re- gion that eccleſiaſticks ſhould have great ſecular pow- r of any kind; and much leſs that all eccleſiaſticks hrough the world ſhould be deemed as a great cor- oration to be governed by a common prince or coun- l; who too ſhould have power to promote, in many ations, what favourites they pleaſed, to high digni- es and princely revenues; and to whom there ſhould e appeals from the higheſt courts of the ſeveral nati- ns, in matters upon which wealth and power depend.

VII. IT is one great deſign of civil laws to ſtrength- n by political ſanctions the ſeveral laws of nature; nd to appoint ſuch forms of buſineſs, and of proceſs n courts, as may prevent frauds and promote juſtice. he populace often needs alſo to be taught, and en- aged by laws, into the beſt methods of managing their wn affairs, and exerciſing their mechanick arts: and n general, civil laws ſhould more preciſely determine any points in which the law of nature leaves much atitude.

From the very beſt body of civil laws certain exter- al rights muſt ariſe, which tho' no man can inſiſt up- n with a good conſcience, yet if the perſons to whom ey are granted claim them, they muſt hold them with

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impunity: nor can any one rightly have recourſe to violence againſt ſuch rights, or obtain redreſs at law. Many alſo of the moſt ſacred duties can be no matter of compulſion, but muſt be left to the honour and conſcience of thoſe concerned. There are certain benefits granted by law, which no good man would claim, but when claimed they cannot be refuſed. * Any ſuch covenants or teſtaments too as for want of the legal formalities are not confirmed by human laws, a good man would often think himſelf bound to hold as valid, if there's nothing appointed in them beyond the moral power of the parties or teſtator, nor contrary to equity. But if they are wrong in either of theſe reſpects, a good man may take the benefit of the law.

VIII. THE *ſanctions* of laws are *rewards* and *puniſhments*. There's this common reward annexed to obedience to civil laws, that theſe who obey them continue to enjoy all the advantages of civil life. Some few civil laws have peculiar rewards, ſuch as honours and premiums in money. The natural honour is "the "good opinion others entertain of our moral excellen-"cies." Civil honours are "theſe external indica-"tions of deference which are appointed by law."

The *ſimple eſtimation*, or character of common honeſty, is ſo much every man's right, that no governor can deprive one of it at pleaſure, without a cauſe determined in judgment. The higher eſtimation, or *intenſive*, as ſome call it, is not a matter of perfect right

* On theſe two heads there are two good orations of Barbeyraque, annexed to his tranſlation of the ſmaller book of Puffendorf, *De legum permiſſione et beneficiis.*

no man can at the command of others form high opinions of any perſon, without he is perſuaded of his merit. But as to external marks of deference, and precedencys, the civil powers have a right to determine about them, as they do about other civil rights. If theſe are conferred only upon real merit, they will be of high account with wiſe men. But if they are often conferred injudiciouſly, they will grow mean and deſpicable to wiſe men, and matter of ſcorn and jeſt: as they are often ſeen where they are hereditary, and where's no cenſorial power to degrade the unworthy.

IX. THE true end of all puniſhment is this, that all bad men by the terror of them may be reſtrained from doing any thing injurious, and thus the community be preſerved in ſafety. *Chaſtiſement* as diſtinguiſhed from puniſhment, has in view only the reformation of the ſufferer: and *reparation of damage*, aims at the utility of the one who ſuſtained the loſs: to this men are often bound even without any preceeding crime or fault.

Neither anger, nor hatred of the criminal, nor even that honeſt indignation at moral evil, which is natural to every good man, ſhould be the ſole ſprings of puniſhing: but rather a calm regard to the common intereſt, and the ſafety of the innocent. The true meaſure of puniſhment is not to be taken from the degrees of moral turpitude, but the exigence of ſociety. A great deal of high moral turpitude muſt paſs unpuniſhed: and yet on the other hand if the ſafety of the community require it, ſome actions which ſhew ſmaller depravity of temper, muſt be puniſhed ſeverely. Thus

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no penalties are inflicted on ingratitude, and want of humanity; while any inſurrection againſt the ſupreme power, tho' upon plauſible pretences of the right of ſome competitor, muſt be puniſhed ſeverely. But the crimes which deſerve the higheſt puniſhments on both accounts, are the publick ones of men in power, perverting what was intruſted to them for the ſafety of others to the oppreſſion of the citizens.

Though it may not be neceſſary to puniſh the firſt motions or haſty intentions of wickedneſs, nor is it often practicable; as ſuch raſh motions may upon ſudden provocation ariſe in the breaſts of good men, who will ſoon reſtrain them of themſelves: yet ſuch as have proceeded to any external actions which might have effectually accompliſhed the evil, but were prevented by accident, or force, or the timely aid of others, and which ſhew furious malice and obſtinate purpoſes of injury, theſe deſerve as high puniſhments as if they had obtained their effect. Sometimes indeed the publick intereſt may require the granting even rewards to ſome bad actions, and pardoning the greateſt criminals.

The *reſpect of perſons* which is highly culpable in judgment, is when any regard is had to ſuch qualities or actions or circumſtances of the guilty as neither affect the turpitude of the crime, nor the ſenſe of the puniſhment, nor the common intereſt of ſociety. But circumſtances which affect any of theſe three muſt always be regarded. And therefor when other circumſtances are equal, pecuniary fines are to be enlarged for equal crimes according to the fortunes of the criminals, and corporal puniſhments according to their ſtrength of body and

and ignominious ones are to be abated according to the dignity of the perſons.

But we muſt not go on in increaſing without bounds the ſeverities of puniſhment upon the higher crimes. For frequent ſpectacles of tortures have a tendency to diminiſh our natural compaſſion and tenderneſs of heart, and to make the tempers of men more ſavage and cruel.

X. 'Tis unjuſt to puniſh any man for the crimes of others; nor is it equitable to confiſcate the whole fortune of a family for any crime of the head of it. All the natural claims of the wife and children to a ſupport out of it, as well as debts due to any innocent perſons, ſhould firſt be diſcharged. Nor is it naturally juſt to puniſh any bodies-corporate for any crimes; the guilty only in ſuch caſes ſhould be puniſhed, whether private perſons or magiſtrates of the corporation. It may ſometimes be juſt to take from the corporation either theſe privileges, or fortifications, or arms, by which the criminal members of it were encouraged or enabled to do injuries to their neighbours, if ſecurity againſt like injuries can be obtained no other way. The corporation may ſometimes be bound to compenſate damages out of its publick ſtock, or even the private fortunes of its members, when the criminals can't be found, or cannot repair the damage; if it has been occaſioned or encouraged by any of theſe advantages, privileges or fortifications, which the body had obtained for their own behoof.

XI. EVERY government has the juſteſt right to exact tributes from the ſubjects by law, provided they are no more than what are requiſite for the prudent ad-

miniſtration of publick affairs; as this publick expence is made for the behoof of all. The violating ſuch laws by any ſubject is equally criminal with theft. Nor is the injury ſo properly done to the governors, as to our fellow-ſubjects; who muſt be obliged to make up deficiencies occaſioned by theſe frauds, ſome other way, and muſt be ſubjected to other burdens on this account; beſide many other inconveniences. There is no other poſſible method, of making men contribute in juſt proportions to the publick charge, than by inſtituting a *cenſus*, or valuation of all their fortunes.

XII. THESE are the obligations of ſubjects toward their governors: firſt, they are ſacredly bound to obey all their juſt laws and commands: and ſecondly, if the thing commanded be a matter committed to the power of the governor; 'tis generally the duty of ſubjects to obey, even when they judge that the orders are imprudent. This holds moſt obviouſly in military operations. For to allow the inferior to judge of his orders, and only to obey when he thinks them prudent for the good of the ſtate, would deſtroy all military diſcipline, and reduce an army into a tumultuous mob.

3. Hence it follows that in matters committed to the wiſdom of governors, the ſubjects may act a juſt nay an honourable part in obeying ſuch orders as were very criminal to their governor: the ſubject by obeying is preventing the greateſt miſchief; ſince from the relaxing of all order and government, far greater evils muſt generally enſue, than from the execution of very imprudent orders.

4. But if the thing commanded ſeems to the ſubject ſo

ſo entirely pernicious and ruining to the ſtate, that it were better to break through and deſtroy the authority of ſuch commanders, than to execute ſuch deſtructive orders: the ſubject may refuſe obedience. But in ſuch matters they ſhould uſe the utmoſt caution that they don't judge amiſs.

5. Where we are commanded to do any act directly irreverent and impious toward God, or contrary to the perfect rights of others; or where the matter commanded was not committed to the power of the commander; we are under no obligation to obedience. Nay 'tis often highly honourable to endure rather any puniſhment, than ſubmit to a precedent that may be ruinous to our country. We ſhewed above * in what caſes it is lawful for ſubjects to reſiſt their governors.

The common duties of all ſubjects muſt eaſily appear from the nature and origin of civil power and the political union. Their peculiar duties ariſe from their ſeveral ſtations, relations, and offices in the ſtate.

* Book III. vii. 2.

CHAP. IX.

The LAWS *of* WAR.

THE rights of war and treaties are of that claſs which reſpect foreigners. The principal matters of right in war, as to their cauſes and bounds, were explained in the former book *, when treating of war among perſons in natural liberty. The ſame maxims hold in the publick wars of ſtates, which with reſpect to each other are in the ſame ſtate of natural liberty.

As to publick wars of a leſs ſolemn kind, without the order of ſovereign ſtates on both ſides; they may be ſufficiently underſtood from what was already ſaid about the right of governors to repreſs tumults and inſurrections, and from the right of reſiſtance that ſubjects may have in defence of themſelves againſt perfidious governors †. "A war undertaken by order of "independent ſtates on both ſides" is called a *ſolemn war*. Nor need we add to the definition, that it be *previouſly proclaimed*; tho' it be highly becoming every civilized nation, when they have recourſe to force, to let all around know the grounds of it, as ſoon as they can conveniently. But 'tis plainly not incumbent on the nation invaded by another, to make a previous declaration before it defends itſelf. Nor is it always neceſſary that the aggreſſor ſhould make ſuch previous declara-

* Ch. XV. † Book III. vii. 2.

declaration; as perhaps his ſureſt method of obtaining his right may be by ſurprizing the enemy; and a previous declaration might prevent his beſt opportunity of ſucceſs. What has led ingenious and learned men to make a previous proclamation neceſſary, was too great a deference to the *foecial laws* among the Romans. But as contending by violence is not agreeable to the rational and ſocial nature, 'tis unworthy of a good man, when he is forced to betake himſelf to it, not to declare openly, as ſoon as he can with ſafety, his motives and intentions, that all may ſee that he could not otherways obtain his right.

As in civil wars there are often ſpecious reaſons on both ſides; all neighbouring ſtates ſhould ſhew the ſame favour to both the contending parties as to theſe engaged in ſolemn wars. Nay in civil wars there are as frequently as in the ſolemn, juſt cauſes on one ſide, and ſpecious ones on the other. Nor is either of the parties engaged in them to be deemed like robbers or pirates, abdicating or forfeiting all the rights of mankind.

II. THE laws of war either reſpect the contending parties or neutral ſtates. "What right reaſon ſhews "neceſſary to be obſerved in war for the general inte-"reſt of mankind" may be called *the law of nations of neceſſary obligation*. But "what a long tract of "time has made cuſtomary, with a tacit approbation "or conſent of nations;" which however might be altered by contrary cuſtom, or taken away at once by a timeous premonition of all concerned, we may call the *voluntary law of nations*.

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The juſt cauſes of war were explained in the former book *. But with reſpect to neighbouring ſtates we may ſuggeſt, that as among citizens there are allowed actions at law for prevention of damages not yet done, and agrarian laws reſtrain ſuch exceſſive acquiſitions of wealth as may prove dangerous to the ſociety, tho' the acquiſitions are not to be made by injurious means; ſo ſometimes among neighbouring ſtates, a dangerous increaſe of power in any one of them may give a juſt cauſe of war, if no gentler ſecurities can be obtained: eſpecially when the people of that ſtate ſhew a general ambition of military glory and conqueſt, and quit all peaceful arts: ſo that their neighbours muſt be in perpetual dangers, unleſs they alſo quit the innocent arts of peace, and are always a training to war. But this is an inſtance of theſe *extraordinary rights* which ſeldom occur.

In publick wars the term of commencement, and the term of ending, or the bounds of our demands, may be fixed the ſame way as thoſe of private perſons in natural liberty; of which formerly.

The juſt methods of carrying on war are open violence, or ſuch arts of deceiving as carry along with them no profeſſion or tacit engagement of communicating our ſentiments to the enemy †. Violence is juſtifiable only againſt men in battle, or ſuch as violently obſtruct our obtaining our rights; altho' by the inhuman cuſtoms which have prevailed, men may exerciſe with impunity any ſort of cruelties toward their enemies. 'Tis alſo very ordinary to deceive enemies by

* Ch. xv. † Book II. x. 2.

by any falſe narrations, or any ſort of diſcourſe, except ſuch as imports making ſome covenant or treaty with them. But as it is by treaties alone that either peace can be reſtored, or more humane methods of war maintained, and horrid mutual cruelties prevented; it never was, nor ought it to be allowed to deceive enemies by any form of treaties.

III. THERE are many other obligations introduced by long cuſtom importing tacit covenants; which however could be taken away by a timeous premonition of all concerned. Such as, that none ſhould uſe poiſons in war, or employ any of the enemies ſubjects or ſoldiers to aſſaſſinate their prince or their generals. That all meſſengers or envoys, or ambaſſadors ſent on either ſide ſhould have protection to their perſons, is indeed matter of neceſſary obligation; ſince it is by their means alone that peace can be obtained, without the entire deſtruction of one ſide, or any humane methods of war preſerved. But 'tis matter only of voluntary right that paſſports ſhould be mutually allowed, to any ſubjects of the hoſtile nation who come unarmed, to travel through their countries, or to reſide in their cities.

IV. UPON what grounds of juſtice the goods of the ſubjects of hoſtile ſtates are ſeized mutually, comes next to be explained.

1. All ſtates in amity are bound to reſtrain their ſubjects from depredations, or any way injuring the the ſubjects of ſtates around them: and when ſuch injuries are done, they are obliged to compel the authors of them to make reparation. We ſpeak now of ſubjects

jects who are amenable by law, and not of pirates or robbers.

2. When such reparation is demanded and refused, the injured state may justly have recourse to force, seizing the goods wrongfully taken, or if they can't find them, taking to their value from the authors of the injury, or from the state, which by defending the depredators bring the guilt upon themselves. And this right is still more obvious if the injuries have been done by publick order.

3. If there's no opportunity of seizing the publick goods of the injurious state, the injured may seize the private goods of any citizens of that state. For as the political constitution and the civil power was erected for the behoof of all the subjects, they are bound to repair any damages arising from this contrivance which they fell upon for their own utility *. And the civil powers by giving their protection, have plainly supported and excited their subjects to such injuries.

4. But then these innocent subjects who suffer thus by these reprisals, on account of their community, may justly claim from their community to have their losses repaired, out of the common stock, or out of the goods of the depredators. It certainly would be the more equitable and clear way, that goods thus seized as reprisals from the innocent subjects were only detained as pledges, till the injured state received reparation another way, and then were restored to the owners. But a contrary custom has prevailed †; and the old property

* Book II. xiv. 2. and Book III. iii. 2, art. 5.

† Probably with a view to make the soldiers more active in

perty is on all ſides deemed to be extinguiſhed, as ſoon as ſuch goods taken are brought into any fortreſſes of the captors, and adjudged, either to them or their community: ſo that ſhould they even be retaken afterwards, the old proprietors cannot claim them. Nor can they be taken by violence, or any claim be made upon them by the old proprietors, after they are any way legally acquired by any ſubjects of a neutral ſtate, and brought within their territories.

V. THE principal laws with reſpect to neutral ſtates are briefly theſe. 1. A neighbour-ſtate under no engagement to ſend auxiliaries to either ſide, ought neither to be involved in the war, nor ſuſtain any damage by it.

2. If the neutral ſtate by ſome former treaties be obliged to ſend auxiliaries to both upon the event of wars; when its two confederates are at war with each other, it ought to ſend aids to neither; or if it is inclined to engage in war, it ſhould ſend aids to that ſtate whoſe cauſe it judges to be juſt. For all ſuch offenſive and defenſive alliances bind only upon ſuppoſal that the cauſe be juſt: nor can they bind the neutral ſtate to make war upon ſuch as are allied to them by ſolemn treaties.

3. A neutral ſtate may juſtly purchaſe, or take by any other title, any moveable ſpoils taken on either ſide after they are adjudged as lawful prize: nor can the former proprietors have any further claim upon them. The neutral ſtates or their citizens are no com-

in diſtreſſing the enemy: as large ſhares of the goods taken are uſually given to the captors.

petent judges of the juſtice of the war and the captures; and they may frequently be ignorant whether the goods they purchaſe are prizes taken in war or not.

4. But as to lands, forts, or cities the caſe is different. The neutral ſtate muſt know by what title they are held, and that they were taken from a ſtate in amity with them: and by purchaſing them they muſt preclude that ſtate from retaking them again. What annual rents or ſervices may be due by any diſtrict or ſmaller town, to any great city or fort lately taken by the enemy, may juſtly be paid by ſuch as are neutral to the preſent poſſeſſor; and the refuſal of ſuch payment might be deemed a declaration againſt the juſtice of the capture. If ſuch great cities or forts be again recovered by the old governors, the payments made to the enemy during his poſſeſſion muſt be ſuſtained as good; nor can the repayment of the ſame ſums or ſervices be demanded. But if the violent poſſeſſor pretends to ſell or alienate or relinquiſh for ever any ſuch rents or ſervices due by a neutral territory, or to exact payment of old debts, or to aboliſh them, the deed will not be valid againſt the old proprietor when he recovers his old poſſeſſions again.

5. Whatever new favour is granted, by a neutral ſtate to one of the parties in war, it muſt grant the like to the other, if it would preſerve neutrality; ſuch as the allowing any of its ſubjects to enliſt, or hiring out its troops, or ſupplying with military ſtores. Indeed the ſending arms or military ſtores, by way of merchandize, to either of the ſtates in war, is deemed commonly by the other a breach of the neutrality

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and they are accordingly ſeizable: and ſo are even common proviſions into any place beſieged.

6. Neutral ſtates muſt not be hindered in their commerce with either of the parties, except in arms or military ſtores; the nature of which too 'tis not eaſy to define. A neutral ſtate may ſet to freight its merchant-ſhips to either ſide for trade. If they are taken, the enemy's cargo is juſtly ſeizable, but not the ſhip. Neutral ſtates may freight the ſhips of either ſide; and if they are taken, the cargo cannot be made a prize, but the ſhip may. Nor ſhould any neutral ſtate loſe any right of pledge or mortgage formerly conſtituted, in any goods moveable or immoveable which happen to be taken in war.

7. Neither of the parties at war ought to uſe any violence againſt each other within the territories of a neutral ſtate, by taking men, ſhips, or other goods of their enemies, found in neutral ports. And the territory of each includes not only their harbours, but any narrow bays running far into the land, the ſhoars, and ſuch contiguous parts of the ſea as are within reach of any military engines. For if ſuch violence were allowed, a neutral ſtate might ſuffer greatly by being made a ſeat of war; and their commerce with both ſides muſt be entirely obſtructed.

8. As to deſerters and fugitives; neither of the contending parties can exerciſe any juriſdiction conjoined with force, over their own citizens within the bounds of a neutral ſtate, except by commiſſion firſt obtained from the civil powers of the neutral ſtate. No ſtate indeed ſhould protect ſuch as have been guilty of the

more atrocious, deteſtable crimes; ſuch criminals ſhould be ſeized and delivered up to juſtice. But as to deſerters in war from either ſide, or perſons who have fled on account of religion, or any ſtate-crimes they committed, in conjunction with any ſtate-faction, upon ſome plauſible ſhews of right; a humane cuſtom has obtained that they ſhould find protection in all other ſtates, while they don't make any new attempts againſt the civil powers of their country.

CHAP.

CHAP. X.

Of TREATIES *and* AMBASSADORS, *and the entire* DISSOLUTION *of* STATES.

THE chief laws of nature about treaties were explained in the doctrine of contracts in natural liberty *. But we muſt remember that the exception of unjuſt force and fear cannot be admitted againſt the obligation of any treaties of peace; otherwiſe the old controverſies might always be kept a-foot. And yet ſuch exceptions may juſtly take place when the war is manifeſtly and avowedly unjuſt on one ſide; or if the terms impoſed by the more potent ſide are manifeſtly injurious and contrary to all humanity. In theſe caſes the party injured may inſiſt upon an arbitration; and if the other ſide refuſe to ſubmit to it, each ſide muſt by force conſult its own ſafety and the maintenance of its rights, by what aids it can find.

Treaties are divided into *real*, and *perſonal*: the perſonal, which are leſs in uſe, are entered into in favour of the prince's perſon, and ceaſe to bind upon his demiſe. The *real*, reſpect the body of the people, or the nation, which is deemed immortal. Treaties are alſo divided into the *equal*, ſuch as bring equal or proportionable burdens on each ſide, and *unequal* which bring unequal burdens. But 'tis not every unequal treaty that any way impairs or diminiſhes the † majeſty and independency of the ſide ſubmitting to the greater burden.

Hoſtages

* Book II. ix. † Book III. v. 5.

Hoſtages in former ages were ſecurities commonly given for performance of treaties, but they are now gone into diſuſe; becauſe it would be exceedingly inhumane to treat the innocent hoſtages any way harſhly becauſe of the perfidy of their country.

II. IN making treaties *ambaſſadors* are employed. Their rights are all the ſame, whatever names are given them, if they are entruſted to tranſact the affairs of a ſovereign ſtate. Their perſons ſhould be ſacred and inviolable, as we ſaid above. They have a juſt natural right to demand that their propoſals ſhould be delivered. But as to an allowance to reſide any time in the ſtate to which they are ſent, they may claim it as due out of humanity, but cannot inſiſt on it as a perfect right. Since the buſineſs of the more active ambaſſadors is much the ſame with that of ſpies upon the nations where they reſide. If they are allowed to reſide; the law of nature would give them no higher rights or immunities, than any other foreigner might claim without any publick character.

But by the voluntary laws of nations, they have many ſingular privileges and immunities, both for themſelves and all their neceſſary retinue: all which however any ſtate might without any iniquity refuſe to grant them, if they give timeous intimation of their deſign to do ſo to to all concerned.

1. This is cuſtomary in the firſt place, that no action can be brought againſt an ambaſſador or his neceſſary retinue, ſuch as his ſecretaries, or domeſticks, in any courts to which he was not ſubject previouſly to his taking this character. What has been in view

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in this cuſtom, was this; that an ambaſſador, the more vigilant he is in his office, will be generally ſo much the more diſliked and hated in the ſtate where he reſides: and therefor were he ſubject to its courts, he would not have a fair hazard for juſtice in a nation prejudiced againſt him. The ſubjects of the ſtate where he reſides may eaſily abſtain from any contracts with him in which they may be wronged, ſince they can have no action againſt him. Should an ambaſſador or his retinue commit any outragious crimes; he may be ſent home, and juſtice demanded of his conſtituents; the refuſal of which may be a juſt cauſe of war. If any ambaſſador intermeddles in trade, his merchant-goods, except ſuch as are neceſſary for his ſupport in his embaſſy, are liable to attachments or arreſts for the debts he contracts in trade.

2. An ambaſſador's houſe is deemed a ſanctuary to himſelf and all his retinue and attendants: of which however a liſt may juſtly be demanded upon his admiſſion; and the ſtate where he is to reſide have a right to fix what retinue of his they will receive or grant immunities to. But an ambaſſador by this privilege muſt not impair the juriſdiction of the ſtate where he reſides over its own ſubjects, by making his houſe a ſanctuary for any criminals among them.

3. An ambaſſador has the ordinary power of the head of a family over his own domeſticks; or ſuch juriſdiction in their civil actions as his conſtituents have granted him. But neither an ambaſſador, nor even a prince reſiding in a foreign ſtate, has a criminal juriſdiction or power of inflicting capital puniſhments upon his

his own ſubjects, except by permiſſion of the ſtate where he reſides.

4. *Inhibitions* may juſtly be uſed againſt an ambaſſador, to reſtrain him from any outrages againſt our ſubjects: and they themſelves have the natural right of repelling force by force.

5. No ſtate is bound to admit any exiled criminal or fugitive ſubject of theirs, as an ambaſſador from any neighbouring ſtate. But if ſuch a one is ſent with ſuch commiſſion, he cannot juſtly be ſeized or puniſhed, but he may be immediately ordered to quit our country.

6. The honours and precedencies of ambaſſadors muſt be determined by expreſs conventions or the tacit ones of long cuſtom. The ſole natural cauſes of precedency would be the ſuperior excellency of the conſtitution of the ſtate he repreſents; or his own ſuperior perſonal worth. The abſolute or hereditary power of his conſtituent is the worſt reaſon of all; if we regard true merit, and not cuſtoms introduced by barbarians.

III. As to the diſſolution of our political relations, we may obſerve: that by perpetual baniſhment, one ceaſes to be a ſubject any further. But it is not ſo in temporary baniſhments; much leſs in perpetual confinements to any remote parts of the ſtate.

2. No man can claim it as his perfect right to quit his country without the permiſſion of the civil powers or the laws, while it remains unaltered.

3. Where the old conſtitution is much altered, either by foreign force or any potent faction; ſubjects who

who diſſent from theſe changes have a right to conſult their own ſafety elſewhere. And provinces may reſume their independency if they can: as they were ſubjected, as we ſaid above *, only by their own conſent, and that to a ſtate conſtituted in a very different manner.

4. But upon any improvements made in a conſtitution, ſubjects can have no juſt right to deſert it.

5. Whatever changes be made by the citizens themſelves in their own conſtitution, their treaties with foreigners ſtill remain obligatory on both ſides.

IV. We may from what was ſaid above ſee, what right any ſtate can have to give up any part of its diſtrict, or any province with the people dwelling in it, to an enemy, or any foreign potentate. For firſt, as the ſeveral parts of any community, and even provinces, ſubmitted themſelves to the whole body for the common utility of the whole, in which each one was to ſhare; the community has no right to give up or alienate any parts or any provinces without their own conſent; or to oblige them to be ſubject to any other power, when they think they can otherways better conſult their own intereſt. But on the other hand, as there can be no obligation to impoſſibilities; if a ſtate cannot defend its more expoſed parts, or its provinces; it muſt leave them unprotected: nay, if the ſafety of the whole cannot otherways be maintained, it may bind itſelf by a treaty to give no further defence to theſe parts or provinces. But ſuch a treaty impoſes no obligation upon the part or province ſo deſerted, to

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* Book III. vii. 8, 9, 10.

ſubmit to this new claimant. It may juſtly conſult its own intereſt any other way; either by obtaining new confederates, or giving itſelf up to ſome other ſtate upon as good terms as it can; that it may be protected againſt the preſent invader. For that covenant about the common defence of all, by which the ſeveral parts were united into one ſtate, is now come into the caſe of contracts * about what proves impoſſible to be performed.

What is ſaid about any part of a people or a province, holds alſo as to any brave citizen, whom an enraged enemy demands to be given up to him. Such a brave man in caſes of the utmoſt extremity may be as it were abandoned; or no further protected. But his country has not a right to ſeize and deliver him to the enemy, or to hinder him to conſult his ſafety elſewhere.

V. As to the entire diſſolution of ſtates; theſe maxims hold: when a ſtate is entirely conquered, the ſeveral ſubjects of it, and the provinces too, have a right to ſecure themſelves as well as they can; whether by adjoining themſelves to any other ſtate, or by attempting to ſet up a new ſovereign ſtate to themſelves in the province. Citizens no doubt are bound to hazard all for their country, and not to deſpair too haſtily about its ſafety. But if they have made all poſſible efforts for their country, and yet all in vain, they may juſtly conſult their own ſafety as they can.

2. If by any unexpected accidents, a ſtate which ſeemed extinct and conquered for ſome conſiderable time, finds opportunity of ſetting up again independently,

* Book III. vii. 8, 9, 10.

ly, its former ſubjects and provinces ſeem bound to re-unite themſelves to it; provided that during the conqueſt they came under no new and juſt engagements inconſiſtent with this re-union. For ſuch engagements as the citizens or provinces of the ruined ſtate have entered into with foreigners, without any fraud, while their former country ſeemed deſtroyed, muſt be as obligatory as any.

3. A ſtate which has long continued conquered, and was made a province to the conqueror, has loſt all its rights over any of its former citizens who have fled to other countries, and over its former provinces. And tho' after a courſe of ages a new ſtate ſhould be formed in the ſame tracts of land formerly occupied by the old ſtate; this new ſtate can claim none of the peculiar rights of the old one. The ſtates occupying the ſame lands in different ages may be quite different political bodies: and the political body may remain the ſame when they change entirely their lands, nay while they have none at all in poſſeſſion.

While our country remains, all good men ſhould be united in this purpoſe, to deem nothing too hard to be endured or done for its intereſt; provided it be conſiſtent with the laws of that more antient and ſacred aſſociation of all mankind, of which God is the parent and governor. "Our children are dear to us, our "wives are dear, ſo are our parents, our kinſmen, our "friends and acquaintance. But our country contains "within it all theſe objects of endearment, and pre-"ſerves them to us: and therefor every good man "ſhould be ready to lay down his life for it, if he can "thus do it ſervice."

FINIS.

MVSEVM
BRITAN
NICVM